



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 47

Volume 2 of 4

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The following bill was reported to the House from the Senate and ordered to be printed.

- 1 (i) Written marketing plan. The retiree attraction committee shall submit a
2 marketing plan that shall detail the mission, the target market, the
3 competition, an analysis of the community's strengths, weaknesses,
4 opportunities and threats, and the strategies the program will employ to attain
5 its goals.
- 6 (5) During the certification process, a representative of the retirement attraction
7 committee shall attend state training meetings.
- 8 (6) The retiree attraction committee shall work to gain the support of churches, clubs,
9 businesses, and the local media, as this support is necessary for the success of the
10 program.
- 11 (7) Within ninety (90) days of certification, the locality shall submit a complete retiree
12 attraction package to the Department of Travel.
- 13 (8) Before certification is awarded, the retiree attraction committee shall submit a
14 written three (3) year commitment to the program and a long-term plan outlining
15 steps the community will undertake to maintain its desirability as a destination for
16 retirees. The long-range plan shall outline plans to correct any facility and service
17 deficiencies identified in the retiree desirability assessment required by subsection
18 (4)(f) of this section. The written commitment and long-range plan shall be
19 forwarded to the Department of Travel of the Tourism Development Cabinet.
- 20 (9) Upon being certified as a Kentucky certified retirement community, the Tourism
21 Development Cabinet shall provide the following assistance to the community:
- 22 (a) Assistance in the training of local staff and volunteers;
- 23 (b) Ongoing oversight and guidance in marketing, plus updating on national
24 retirement trends;
- 25 (c) Inclusion in the state's national advertising and public relations campaigns and
26 travel show promotions, including a prominent feature on the cabinet's
27 Internet Web site;

- 1 (d) Eligibility for state financial assistance for brochures, support material, and
- 2 advertising; and
- 3 (e) An annual evaluation and progress assessment on maintaining and improving
- 4 the community's desirability as a home for retirees.

5 (10) The Tourism Development Cabinet shall promulgate administrative regulations to
6 implement the provisions of this section.

7 Section 121. KRS 151.035 is amended to read as follows:

8 (1) The Kentucky Geological Survey shall be designated as the Commonwealth's
9 official repository for all information relating to the occurrence and quality of
10 groundwater as defined in KRS 151.100.

11 (2) The Cabinet for Natural Resources and Environmental Protection, the Cabinet for
12 Health and Family Services, and any other cabinet, department, commission, board,
13 or governmental agency, except as provided in subsection (4) of this section, that,
14 by statute, administrative regulation, or as part of its routine activities, collects or
15 generates information about groundwater, shall transmit or cause to be transmitted
16 that information to the Kentucky Geological Survey within ninety (90) days of
17 receipt or generation, or a time determined between the Geological Survey and the
18 other party.

19 (3) The information to be transmitted may include:

- 20 (a) Drillers logs and completion reports of wells drilled or dug for the purpose of
- 21 producing, testing, or monitoring groundwater;
- 22 (b) Geophysical logs of water wells;
- 23 (c) Water quality analyses of both organic and inorganic constituents;
- 24 (d) Results of all pump, extraction, and injection tests;
- 25 (e) Flow determinations of surface discharges of groundwater; and
- 26 (f) Any additional data as the Kentucky Geological Survey shall require.

27 (4) All institutions of higher learning shall be encouraged, but not required, to submit to

the Kentucky Geological Survey copies of all research data, including theses and dissertations relating to the occurrence or quality of groundwater.

Section 122. KRS 151.629 is amended to read as follows:

- (1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development, coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

- (a) Division of Conservation of the Department for Natural Resources;
- (b) Division of Public Health Protection~~[Environmental Health and Community]~~ Safety of the Cabinet for Health and Family Services;
- (c) Division of Forestry of the Department for Natural Resources;
- (d) Division of Environmental Services of the Department of Agriculture;
- (e) Division of Waste Management of the Department for Environmental Protection;
- (f) Division of Water of the Department for Environmental Protection;
- (g) Department for Environmental Protection;
- (h) Department of Mines and Minerals of the Public Protection and Regulation Cabinet;
- (i) Department for Natural Resources;
- (j) Department for Surface Mining Reclamation and Enforcement;
- (k) Kentucky Geological Survey;
- (l) University of Kentucky College of Agriculture; and
- (m) University of Kentucky Water Resources Research Institute.

- (2) The committee shall have two (2) nonvoting legislative liaisons who shall be members of the General Assembly. One (1) liaison shall be a House member appointed by the Speaker of the House of Representatives and one (1) liaison shall

1 be a Senate member appointed by the President of the Senate. The chair of the
2 committee shall be the director of the University of Kentucky Water Resources
3 Research Institute. The duties and responsibilities of the committee shall include:

4 (a) Developing a plan to coordinate agencies for the overall characterization of
5 the state's groundwater, including occurrence, flow systems, water quantity,
6 and water quality;

7 (b) Reviewing the data entry process to ensure that all data collected is placed into
8 the Kentucky Groundwater Data Repository;

9 (c) Establishing a long-term groundwater monitoring plan for the
10 Commonwealth;

11 (d) Making recommendations for prioritization of the state's groundwater research
12 needs; and

13 (e) Annually reviewing and evaluating groundwater data collection and analysis.

14 (3) In addition to the members identified in subsection (1) or (2) of this section, the
15 committee may have, as one (1) of its members, one (1) nonvoting representative
16 from the United States Geological Survey, appointed by that agency.

17 Section 123. KRS 154.20-020 is amended to read as follows:

18 (1) The secretary shall be authorized to commit the cabinet to any project or proposal,
19 subject to approval of the committee as necessary except that any state incentive
20 agreement requiring the participation of other agencies of state government shall
21 require the concurrence of the board.

22 (2) No project shall be funded in whole or part by the authority unless first approved by
23 its committee pursuant to administrative regulations promulgated by the board in
24 accordance with KRS Chapter 13A.

25 (3) Lending decisions made by the authority shall be based, if possible, feasible, and
26 not otherwise precluded by federal or state law, on utilizing state funds to leverage
27 private sector investment.

- 1 (4) The authority shall cooperate with the Cabinet for Health and Family Services in
2 facilitation of KRS 194.245(1)(a).

3 Section 124. KRS 154.23-065 is amended to read as follows:

- 4 (1) Approved companies under KRS 154.23-005 to 154.23-079 that hire and employ
5 Kentucky Transitional Assistance Program (K-TAP) recipients on a full-time basis
6 shall be eligible, to the extent funds are available, to receive wage subsidies from
7 the Kentucky Cabinet for Health and Family Services~~[Families and Children]~~ in
8 KRS Chapter 205, Title IV-A of the Federal Social Security Act (Subchapter 4 of
9 Chapter 7 of Title 42, United States Code), and the administrative regulations of the
10 Cabinet for Health and Family Services~~[Families and Children]~~ that address
11 standards and eligibility requirements for K-TAP and subsidized employment.

- 12 (2) The wage subsidy for a K-TAP recipient shall be equal to a proportionate amount of
13 the prevailing wage paid by the approved company to all other employees in the
14 same job classification as the K-TAP recipient for one (1) year as follows:

15 (a) A seventy-five percent (75%) subsidy for the first four (4) months of
16 employment;

17 (b) A fifty percent (50%) subsidy for the next four (4) months of employment;
18 and

19 (c) A twenty-five percent (25%) subsidy for the next four (4) months of
20 employment.

- 21 (3) During the period of the wage subsidy, the Cabinet for Health and Family
22 Services~~[Families and Children]~~ shall reimburse the employer contribution for
23 FICA and Unemployment Insurance made on behalf of K-TAP recipients.

- 24 (4) The Cabinet for Health and Family Services~~[Families and Children]~~ shall collect
25 information to determine the eligibility of recipients and the availability of this
26 subsidy for approved companies.

27 Section 125. KRS 154.45-060 is amended to read as follows:

- 1 (1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110,
 2 there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11)
 3 members. The authority shall be appointed as follows: one (1) member appointed by
 4 the Governor from a list of three (3) persons nominated by the Labor Management
 5 Advisory Council; one (1) member appointed by the Governor from a list of three
 6 (3) persons nominated by the Kentucky League of Cities; one (1) member appointed
 7 by the Governor from a list of three (3) persons nominated by the Kentucky
 8 Association of Counties; one (1) member appointed by the Governor who is
 9 qualified to represent the interests of Kentucky's small business community; one (1)
 10 member appointed by the Governor from a list of three (3) persons nominated by
 11 the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at
 12 large; one (1) member appointed by the Governor from a list of five (5) persons
 13 nominated by the secretary of the Cabinet for Economic Development; the secretary
 14 of the Cabinet for Economic Development or his designee; the secretary of the
 15 Revenue Cabinet or his designee; and the secretary of the Cabinet for *Health and*
 16 *Family Services*~~[Families and Children]~~ or his designee.
- 17 (2) Authority members shall serve a term of four (4) years and, except for the secretary
 18 of the Cabinet for Economic Development, the secretary of the Revenue Cabinet,
 19 and the secretary of the Cabinet for *Health and Family Services*~~[Families and~~
 20 ~~Children]~~, shall not be eligible to succeed themselves.
- 21 (3) The authority shall meet at least four (4) times per year. A majority of the total
 22 authority membership shall be required to designate an area as an enterprise zone
 23 and to certify businesses as qualified businesses. The authority shall keep official
 24 minutes of all meetings. All members shall serve until such time as their successors
 25 are qualified and appointed. Each member of the authority shall receive one
 26 hundred dollars (\$100), not to exceed twelve hundred dollars (\$1,200) per calendar
 27 year, as compensation for attending official meetings of the authority. Each member

1 of the authority shall be reimbursed for travel expenses actually incurred in the
2 discharge of his duties on the authority.

- 3 (4) The Cabinet for Economic Development shall serve as staff for the authority and
4 carry out the administrative duties and functions as directed by the authority.

5 Section 126. KRS 154A.060 is amended to read as follows:

- 6 (1) The corporation shall conduct and administer lottery games which will result in
7 maximization of revenues to the Commonwealth of Kentucky while at the same
8 time provide entertainment to its citizens. It shall be the duty of the corporation, its
9 employees, and the members of the board to provide for the effective operation of
10 lottery games which insure the integrity of the lottery and maintain the dignity of the
11 Commonwealth and the general welfare of its citizens. The corporation, in pursuit
12 of the attainment of the objectives and the purposes of this chapter, may:

- 13 (a) Sue and be sued in its corporate name;
14 (b) Adopt a corporate seal and a symbol;
15 (c) Hold copyrights, trademarks, and service marks, and enforce its rights with
16 respect thereto;
17 (d) Appoint agents upon which process may be served;
18 (e) Enter into written agreements with one (1) or more other states for the
19 operation, marketing, and promotion of a joint lottery or joint lottery games;
20 (f) Acquire real property and make improvements thereon. These acquisitions
21 shall be reported to the Capital Projects and Bond Oversight Committee for its
22 review and determination in accordance with KRS 45.750 to 45.810; and
23 (g) Make, execute, and effectuate any and all agreements or contracts including:
24 1. Contracts for the purchase of such goods and services as are necessary
25 for the operation and promotion of the state lottery. Proposed purchases
26 of major items of equipment estimated to cost one hundred thousand
27 dollars (\$100,000) or more and proposed purchases of items of

1 equipment where the estimated contract price for all the items of
 2 equipment taken together is four hundred thousand dollars (\$400,000) or
 3 more shall be reported to the Capital Projects and Bond Oversight
 4 Committee for its review and determination in accordance with the
 5 provisions of KRS 45.750 to 45.810. A contract shall not be artificially
 6 divided to cause an estimated contract price to fall below the four
 7 hundred thousand dollar (\$400,000) threshold. Contracts for personal
 8 service shall be reviewed in accordance with KRS 45A.690 to 45A.725.

9 2. Contracts to incur debt in its own name and enter into financing
 10 agreements with the Commonwealth, its own agencies, or with a
 11 commercial bank, excluding the authority to issue bonds.

12 (2) The corporation shall:

13 (a) Supervise and administer the lottery in accordance with the provisions of this
 14 chapter and the administrative regulations adopted by the board;

15 (b) Submit monthly and annual reports to the Governor, the President of the
 16 Senate, and the Speaker of the House of Representatives containing financial
 17 statements which include but are not limited to disclosure of gross revenues,
 18 expenses, and net proceeds for the period;

19 (c) Adopt by administrative regulation a system of continuous internal audits;

20 (d) Maintain weekly or more frequent records of lottery transactions, including
 21 distribution of tickets to lottery retailers, revenues received, claims for prizes,
 22 prizes paid, and all other financial transactions of the corporation;

23 (e) Adopt by administrative regulation a code of ethics for officers and employees
 24 of the corporation to carry out the standards of conduct established by the
 25 provisions of this chapter;

26 (f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the
 27 thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request

submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for Health and Family Services~~[Families and Children]~~ shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Health and Family Services~~[Families and Children]~~ on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan

1 and shall transfer the amount to the authority to credit the account of the
 2 person in default. Any amount remaining after the deduction of the loan
 3 amount shall be paid to the person.

4 Section 127. KRS 156.4975 is amended to read as follows:

5 As used in KRS 156.497, 156.4975, and 156.4977:

6 (1) "Core component" means one (1) of the activities or services for children and their
 7 families provided by a family resource or youth services center required by KRS
 8 156.497(3) and (4).

9 (2) "Optional component" means one (1) of the activities or services provided for
 10 children or their families as part of the implementation of a family resource or youth
 11 services center in addition to those required by KRS 156.497(3) and (4) and
 12 designed to satisfy unique community needs.

13 (3) "Secretary" means the secretary of the Cabinet for *Health and Family*
 14 *Services*~~[Families and Children]~~.

15 (4) "Task Force" means the Interagency Task Force on Family Resource and Youth
 16 Services Centers.

17 Section 128. KRS 156.4977 is amended to read as follows:

18 (1) Beginning with fiscal year 1992, grants shall be awarded to eligible local school
 19 districts to implement or continue family resource and youth services centers as
 20 defined in KRS 156.497.

21 (2) Grant proposal instructions shall be developed by the *Health and Family*
 22 *Services*~~[Cabinet for Families and Children]~~. The instructions shall be contained in
 23 a grant application package and distributed to each local public school district in
 24 which there are qualifying schools.

25 (3) A proposal review team comprised of at least three (3) members shall review
 26 proposals and score each application in accordance with training provided and
 27 scoring procedures established by the Cabinet for *Health and Family*

1 Services~~[Families and Children]~~. Proposal reviewers shall be selected by the
 2 secretary of the Cabinet for Health and Family Services~~[Families and Children]~~.
 3 The reviewers shall submit the scored proposals to the secretary of the Cabinet for
 4 Health and Family Services~~[Families and Children]~~. Written notification of the
 5 secretary's final decision on proposals shall be provided by the secretary to each
 6 applicant school district.

7 (4) The application from each qualifying school or school consortium shall contain the
 8 following:

- 9 (a) A statement of need;
- 10 (b) Proposed goals and outcomes;
- 11 (c) A description of the actual services and activities to be provided at the center
 12 and how they shall be provided;
- 13 (d) A description of how the children and families with the most urgent needs will
 14 be served first;
- 15 (e) Written agreements with other service providers;
- 16 (f) A description of the development, composition, and role of the local advisory
 17 council;
- 18 (g) The strategies to disseminate information;
- 19 (h) A training plan;
- 20 (i) A description of procedures to be followed to obtain parental permission for
 21 services and for sharing confidential information with other service providers.
 22 Procedures shall be developed pursuant to federal law and the Kentucky
 23 Revised Statutes including, but not limited to, KRS 210.410, 214.185,
 24 222.441, 645.030, and Chapters 620 and 635 and shall require that no family
 25 resource center or youth services center offer contraceptives to minor students
 26 prior to receiving the express consent of the student's parent or legal guardian;
- 27 (j) A plan to minimize stigma;

- 1 (k) A work plan for each of the core components and optional components;
 - 2 (l) Job descriptions for staff;
 - 3 (m) A description of the center location and school accessibility;
 - 4 (n) A description of the hours of operation of the center;
 - 5 (o) A financial strategy and budget;
 - 6 (p) A program evaluation plan; and
 - 7 (q) Letters of endorsement and commitment to the center from community
 - 8 agencies and organizations.
- 9 (5) Grant proposal instruction and scoring procedures shall be made available to all
- 10 qualifying schools.

11 Section 129. KRS 157.190 is amended to read as follows:

12 The Kentucky Department of Education shall cooperate with the Kentucky Educational

13 Collaborative for State Agency Children to distribute funds for textbooks, programs, and

14 instructional materials for use by children placed in facilities and programs operated or

15 contracted by the Department of Juvenile Justice or the Cabinet for **Health and Family**

16 **Services**~~[Families and Children's]~~ residential, day treatment, clinical, and group home

17 programs.

18 Section 130. KRS 158.035 is amended to read as follows:

19 Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any

20 public or private elementary or secondary school without first presenting a certificate

21 from a medical or osteopathic physician licensed in any state. The certificate shall state

22 that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and

23 rubella in accordance with the provisions of this section and KRS 214.010, 214.020,

24 214.032 to 214.036, and 214.990 and the regulations of the secretary for health **and**

25 **family** services. The governing body of private and public schools shall enforce the

26 provisions of this section.

27 Section 131. KRS 158.037 is amended to read as follows:

Each public or private elementary or secondary school shall report immunization results to its local health department in accordance with regulations promulgated by the Cabinet for Health and Family Services.

Section 132. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. a. Those children of school age committed to or in custody of the Cabinet for Health and Family Services~~[Families and Children]~~ and placed, or financed by the cabinet, in a Cabinet for Health and Family Services~~[Families and Children]~~ operated or contracted institution, treatment center, facility, including those for therapeutic foster care and excluding those for nontherapeutic foster care; or
- b. Those children placed or financed by the Cabinet for Health and Family Services~~[Families and Children]~~ in a private facility pursuant to child care agreements including those for therapeutic foster care and excluding those for nontherapeutic foster care;
2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and
3. Those children committed to or in custody of the Department of Juvenile Justice and placed in a department operated or contracted facility or program.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to

1 provide a two hundred thirty (230) day school year, smaller teacher pupil
2 ratio, related services if identified on an individual educational plan, and more
3 intensive educational programming.

4 (c) "Therapeutic foster care" means a remedial care program for troubled children
5 and youth that is in the least restrictive environment where the foster parent is
6 trained to implement planned, remedial supervision and care leading to
7 positive changes in the child's behavior. Children served in this placement
8 have serious emotional problems and meet one (1) or more of the following
9 criteria:

- 10 1. Imminent release from a treatment facility;
- 11 2. Aggressive or destructive behavior;
- 12 3. At risk of being placed in more restrictive settings, including
13 institutionalization; or
- 14 4. Numerous placement failures.

15 (2) (a) Unless otherwise provided by the General Assembly in a budget bill, any
16 county or independent school district that provides elementary or secondary
17 school services to state agency children shall be reimbursed through a contract
18 with the Kentucky Educational Collaborative for State Agency Children. The
19 school services furnished to state agency children shall be equal to those
20 furnished to other school children of the district.

21 (b) The Department of Education shall, to the extent possible within existing
22 appropriations, set aside an amount of the state agency children funds
23 designated by the General Assembly in the biennial budget to reimburse a
24 school district for its expenditures exceeding twenty percent (20%) of the total
25 amount received from state and federal sources to serve a state agency child.

26 (3) The General Assembly shall, if possible, increase funding for the education
27 programs for state agency children by a percentage increase equal to that provided

in the biennial budget for the base funding level for each pupil in the program to support education excellence in Kentucky under KRS 157.360 and, if applicable, by an amount necessary to address increases in the number of state agency children being served.

(4) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for **Health and Family Services**~~[Families and Children]~~ unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(5) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(6) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 133. KRS 158.137 is amended to read as follows:

(1) As used in this section:

(a) "State agency child" or "state agency children" means "state agency children" defined in KRS 158.135;

(b) "School or educational facility" means any public school, private school, day treatment center, or any other public or private entity that provides educational

1 services to state agency children; and

2 (c) "Educational passport" means a standard form completed by a school or
3 educational facility which a state agency child is leaving which provides a
4 receiving school or facility with basic demographic and academic information
5 about the state agency child.

6 (2) When the placement of a state agency child is changed and the state agency child
7 must transfer from one school or educational facility to a different school or
8 educational facility, the school or educational facility that the state agency child is
9 leaving shall, within two (2) days of the state agency child leaving, prepare an
10 educational passport for the child, which shall be delivered to the Cabinet for
11 **Health and Family Services**~~[Families and Children]~~ or the Department of Juvenile
12 Justice. The Cabinet for **Health and Family Services**~~[Families and Children]~~ or the
13 Department of Juvenile Justice shall, within two (2) days of enrolling a state agency
14 child in a new school or educational facility, present the educational passport to the
15 receiving school or educational facility.

16 (3) A standard educational passport form shall be developed by the Kentucky
17 Department of Education in consultation with the Cabinet for **Health and Family**
18 **Services**~~[Families and Children]~~ and the Department of Juvenile Justice. The
19 Kentucky Department of Education shall make the form available to all schools or
20 educational facilities serving state agency children.

21 Section 134. KRS 158.160 is amended to read as follows:

22 (1) A parent, legal guardian, or other person or agency responsible for a student shall
23 notify the student's school if the student has any medical condition which is defined
24 by the Cabinet for Health **and Family** Services in administrative regulation as
25 threatening the safety of the student or others in the school. The notification shall be
26 given as soon as the medical condition becomes known and upon each subsequent
27 enrollment by the student in a school. The principal, guidance counselor, or other

1 school official who has knowledge of the medical condition shall notify the
2 student's teachers in writing of the nature of the medical condition.

- 3 (2) If any student is known or suspected to have or be infected with a communicable
4 disease or condition for which a reasonable probability for transmission exists in a
5 school setting, the superintendent of the district may order the student excluded
6 from school. The time period the student is excluded from school shall be in
7 accordance with generally accepted medical standards which the superintendent
8 shall obtain from consultation with the student's physician or the local health officer
9 for the county in which the school district is located. During the presence in any
10 district of dangerous epidemics, the board of education of the school district may
11 order the school closed.

12 Section 135. KRS 160.305 is amended to read as follows:

- 13 (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ may enter into
14 a contract with the local board of education of any school district in the
15 Commonwealth for the use of school buses to transport persons eligible for
16 transportation services at times when the buses are not needed to transport students
17 to or from school or school events. Persons eligible for these transportation services
18 shall be:

- 19 (a) Sixty-two (62) years of age or older;
20 (b) Those with physical or mental disabilities; or
21 (c) Any other person designated by the Cabinet for **Health and Family**
22 **Services**~~[Families and Children]~~ as appropriate for these transportation
23 services.

- 24 (2) Before this contract is entered into, the Cabinet for **Health and Family**
25 **Services**~~[Families and Children]~~ shall formulate a plan for the use of school buses
26 for these purposes and shall submit it to the local board of education for its approval
27 or disapproval. The plan for the use of school buses for these transportation

purposes shall include routes, schedules, cost, and any other matters deemed necessary by both parties.

- (3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the Cabinet for Health and Family Services[Families and Children].

Section 136. KRS 164.282 is amended to read as follows:

- (1) All public and independent postsecondary education institutions shall provide first-time, full-time students with information about hepatitis B disease. The information shall include:

- (a) Symptoms and treatment;
- (b) The risk factors associated with hepatitis B acquisition and transmission; and
- (c) Current recommendations from the United States Centers for Disease Control and Prevention, or the American College Health Association regarding the availability and effectiveness of a hepatitis B vaccination.

- (2) Nothing in this section shall be construed to require the Cabinet for Health and Family Services or the postsecondary institutions to provide or purchase vaccinations for hepatitis B.

Section 137. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:

- (a) The student's family receives state-funded adoption assistance under KRS 199.555;
- (b) The student is currently committed to the Cabinet for Health and Family

- 1 **Services**~~[Families and Children]~~ under KRS 610.010(4) and placed in a family
 2 foster home or is placed in accordance with KRS 605.090(3);
- 3 (c) The student is in an independent living program and the placement is funded
 4 by the Cabinet for **Health and Family Services**~~[Families and Children]~~;
- 5 (d) The student who is an adopted child was in the permanent legal custody of
 6 and placed for adoption by the Cabinet for **Health and Family**
 7 **Services**~~[Families and Children]~~. A student who meets the eligibility criteria
 8 of this paragraph and lives outside of Kentucky at the time of application to a
 9 Kentucky postsecondary institution may apply for the waiver up to the amount
 10 of tuition for a Kentucky resident; or
- 11 (e) The Cabinet for **Health and Family Services**~~[Families and Children]~~ was the
 12 student's legal custodian on his or her eighteenth birthday.
- 13 (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky
 14 public postsecondary institution, including all four (4) year universities and colleges
 15 and institutions of the Kentucky Community and Technical College System, shall
 16 be waived for a Department of Juvenile Justice foster child who is a full-time or
 17 part-time student if the student meets all entrance requirements and maintains
 18 academic eligibility while enrolled at the postsecondary institution and obtains a
 19 recommendation for participation from an official from the Department of Juvenile
 20 Justice, and if:
- 21 (a) The student has not been sentenced to the Department of Juvenile Justice
 22 under KRS Chapter 640;
- 23 (b) The student has been committed to the Department of Juvenile Justice for a
 24 period of at least two (2) years;
- 25 (c) The student is in an independent living program and placement is funded by
 26 the Department of Juvenile Justice;
- 27 (d) The parental rights of the student's biological parents have been terminated; or

- 1 (e) The student was committed to the Cabinet for *Health and Family*
 2 *Services*~~[Families and Children]~~ prior to a commitment to the Department of
 3 Juvenile Justice.
- 4 (3) Upon request of the postsecondary institution, the Cabinet for *Health and Family*
 5 *Services*~~[Families and Children]~~ shall confirm the eligibility status under subsection
 6 (1) of this section and the Department of Juvenile Justice shall confirm the
 7 eligibility status and recommendations under subsection (2) of this section of the
 8 student seeking to participate in the waiver program. Release of this information
 9 shall not constitute a breach of confidentiality required by KRS 199.570, 610.320,
 10 or 620.050.
- 11 (4) The student shall complete the Free Application for Federal Student Aid to
 12 determine the level of need and eligibility for state and federal financial aid
 13 programs. If the sum of the tuition waiver plus other student financial assistance,
 14 except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from
 15 all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C.
 16 sec. 1087II, the tuition waiver shall be reduced by the amount exceeding the total
 17 cost of attendance.
- 18 (5) The student shall be eligible for the tuition waiver:
- 19 (a) For entrance to the institution for a period of no more than four (4) years after
 20 the date of graduation from high school; and
- 21 (b) For a period of five (5) years after first admittance to any Kentucky institution
 22 if satisfactory progress is achieved or maintained.
- 23 (6) The Cabinet for *Health and Family Services*~~[Families and Children]~~ shall report
 24 the number of students participating in the tuition waiver program under subsection
 25 (1) of this section and the Department of Juvenile Justice shall report the number of
 26 students participating in the tuition waiver program under subsection (2) of this
 27 section on October 1 each year to the Council on Postsecondary Education and the

Legislative Research Commission.

(7) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.

(8) Nothing in this section shall be construed to:

(a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;

(b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;

(c) Require any postsecondary institution to waive costs or fees relating to room and board; or

(d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for **Health and Family Services**~~[Families and Children]~~ from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

Section 138. KRS 164.2849 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that it is in the best interests of the Commonwealth to encourage and support adults to adopt and provide foster care for children in the custody of the state. The General Assembly recognizes that a child whose care, custody, and control has been assumed by the Commonwealth as evidenced by termination of the rights of the biological parents and adoption from state custody or a custodial commitment to the Cabinet for **Health and Family Services**~~[Families and Children]~~ or the Department of Juvenile Justice is a special ward of the state and faces particular challenges in pursuing higher education. Because it is the intent of the General Assembly to support adoption, foster parenting, and educational advancement, the purpose of KRS 164.2847 is to provide postsecondary education advancement opportunity for foster and adopted children who are or were

1 wards of the state.

2 Section 139. KRS 164.2867 is amended to read as follows:

- 3 (1) Each public or private educational institution that offers a postsecondary degree and
4 has a residential campus shall provide vaccination information on meningococcal
5 meningitis disease to full-time students living in resident housing.
- 6 (2) The vaccination information shall be contained in the student housing or enrollment
7 application or lease document and shall include a space for the student to indicate
8 whether or not the student has received the vaccination against meningococcal
9 meningitis disease. If institutions provide electronic enrollment or registration to
10 first-time students, the information required by this section may be provided or
11 collected electronically.
- 12 (3) Vaccination information about meningococcal meningitis disease shall include
13 detailed information on the risks of the disease and any recommendations issued by
14 the National Centers for Disease Control and Prevention.
- 15 (4) The vaccination information obtained under this section that is in the possession of
16 the educational institution is confidential and shall not be a public record.
- 17 (5) This section shall not be construed to require the educational institution or the
18 Cabinet for Health and Family Services to provide or pay for the meningococcal
19 meningitis disease vaccination.

20 Section 140. KRS 164.518 is amended to read as follows:

- 21 (1) It is the intent of the General Assembly to create a seamless system to upgrade the
22 professional development of persons who are employed or provide training in a
23 child-care or early childhood setting through scholarships, merit awards, and
24 monetary incentives, to assist these persons in obtaining a child development
25 associate credential, post-secondary certificate, diploma, degree, or specialty
26 credential in an area of study determined by the authority as recommended by the
27 professional development council.

1 (2) Eligibility for scholarship funds shall be for individuals who do not have access to
 2 professional development funds from other education programs that receive state or
 3 federal funds, and who are:

4 (a) Employed at least twenty (20) hours per week providing services in a child-
 5 care or early childhood setting; or

6 (b) Involved in providing professional development training for teachers in an
 7 early childhood setting.

8 (3) The Kentucky Higher Education Assistance Authority, after consultation with the
 9 Early Childhood Development Authority and the Cabinet for Health and Family
 10 Services~~[Families and Children]~~, shall promulgate administrative regulations,
 11 including a system of monetary incentives for scholarship program participants for
 12 completing classes, in accordance with KRS Chapter 13A as necessary to
 13 implement this section.

14 Section 141. KRS 164.935 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Physician" means a medical doctor practicing full-time family medicine,
 17 general obstetrics and gynecology, general pediatrics, or general internal
 18 medicine; and

19 (b) "Underserved geographic area" means a county in which the ratio between
 20 physicians practicing full-time in that county and the county's population
 21 results in each physician serving two thousand five hundred (2,500) or more
 22 residents, based on population data acceptable to either the University of
 23 Kentucky or the University of Louisville.

24 (2) The University of Kentucky and University of Louisville shall establish and
 25 maintain physician recruitment and placement services, the principal function of
 26 which shall be to recruit or place family or general practice physicians in
 27 underserved geographic areas. The Cabinet for Health and Family Services shall

1 pay each university fifty thousand dollars (\$50,000) annually for basic
2 administrative costs in addition to the fees enumerated in subsection (4) of this
3 section.

4 (3) Physician recruitment and placement services may be contracted by licensed health-
5 care facilities or services to assist in recruiting physicians in underserved
6 geographic areas. Fees shall be charged by the University of Kentucky or the
7 University of Louisville to the contracting party in an amount not to exceed ten
8 thousand dollars (\$10,000) per physician.

9 (4) If no licensed health-care facility or service has contracted for recruitment services,
10 when the University of Kentucky or the University of Louisville places a physician
11 in an underserved geographic area or a psychiatrist in a state mental health facility,
12 the following fees shall be paid to the university by the Cabinet for Health and
13 Family Services, the total of which shall not exceed fifty thousand dollars
14 (\$50,000) per university in addition to the fifty thousand dollars (\$50,000) per
15 university enumerated in subsection (2) of this section:

16 (a) Ten thousand dollars (\$10,000) for a family practice physician entering
17 permanent, full-time practice;

18 (b) Ten thousand dollars (\$10,000) for a psychiatrist entering full-time permanent
19 employment in a state mental health facility;

20 (c) Eight thousand dollars (\$8,000) for a general obstetrician-gynecologist
21 entering permanent, full-time practice;

22 (d) Two thousand dollars (\$2,000) for a general pediatrician or general internal
23 medicine practitioner entering permanent, full-time practice; and

24 (e) One thousand dollars (\$1,000) for any other licensed medical practitioner
25 entering permanent, full-time practice.

26 (5) Fees paid to the universities under the provisions of subsection (3) of this section
27 shall be made only after sufficient proof has been presented documenting the

1 university's principal role in influencing the physician's practice location.
2 Correspondence from physicians placed, as well as all other parties directly
3 involved, shall state that the university substantially influenced the physician's
4 choice of practice location and describe in detail the services provided by the
5 university.

6 Section 142. KRS 174.410 is amended to read as follows:

7 (1) The secretary shall be responsible for controlling and regulating the movement of
8 all radioactive materials and the intrastate transport of other hazardous materials
9 transported by all carrier modes within the Commonwealth.

10 (2) The secretary, in consultation with the secretary of the Natural Resources and
11 Environmental Protection Cabinet and the secretary of the Cabinet for Health and
12 Family Services, shall adopt by reference or in entirety, the Federal Hazardous
13 Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively
14 carry out the intent of KRS 174.400 to 174.425.

15 (3) The cabinet and the Justice Cabinet shall cooperate with and assist the Natural
16 Resources and Environmental Protection Cabinet in implementing and enforcing
17 the transportation provisions of any state hazardous waste regulations promulgated
18 pursuant to KRS Chapter 224. The specific nature and details of the assistance
19 effort shall be established by a formal cooperative agreement acceptable to the
20 cabinets, and all activities shall occur in accordance with the terms of the
21 agreement. The agreement shall address and include, but not necessarily be limited
22 to, the following items:

23 (a) As a part of routine and periodic transportation checks and inspections, ensure
24 that shipments of hazardous waste do not present a threat to the public or the
25 environment; are accompanied by the required hazardous waste manifest or
26 such other shipping or delivery documents as may be acceptable to the Natural
27 Resources and Environmental Protection Cabinet; and comply with applicable

1 shipping standards;

2 (b) Upon receipt of a written request from the secretary or general counsel of the
3 Natural Resources and Environmental Protection Cabinet, actively conduct
4 field investigations relating to the illegal, improper, or unauthorized transport
5 of hazardous waste in the state. Such investigations may, at a minimum,
6 include passive and active surveillance, apprehension, and reporting, with the
7 scope and extent of each investigation to be previously agreed to by the
8 involved cabinets;

9 (c) Compile and maintain such necessary records that may normally be required
10 to carry out the provisions of this subsection and shall for minor violations
11 report quarterly, and for major violations report weekly, to the Natural
12 Resources and Environmental Protection Cabinet on the status of the
13 interagency hazardous-waste transportation monitoring and enforcement
14 activity for irregularities or violations;

15 (d) Provide any information, evidence, and other support, either in written form or
16 in the form of oral testimony during a legal proceeding or both, as may be
17 required by the Natural Resources and Environmental Protection Cabinet to
18 fully carry out its statutory responsibility under the appropriate sections of
19 KRS Chapter 224;

20 (e) The Natural Resources and Environmental Protection Cabinet shall, unless
21 specifically agreed otherwise, have primary responsibility for initiating and
22 conducting all legal proceedings arising from the terms and provisions of this
23 subsection; and

24 (f) The Natural Resources and Environmental Protection Cabinet shall provide
25 sufficient training, technical assistance, and other support to the appropriate
26 cabinets to prepare representatives of the cabinets to adequately carry out the
27 responsibilities set forth in this subsection.

1 Section 143. KRS 175.525 is amended to read as follows:

2 (1) The authority or the cabinet shall establish by administrative regulation promulgated
3 pursuant to KRS Chapter 13A a toll-road identification card to be provided to
4 paying and nonpaying users of toll facilities. The toll-road identification cards shall
5 be issued through an application process. A fee that shall not exceed five dollars
6 (\$5) may be established for the issuance of each card.

7 (2) Upon application, nonpaying accounts shall be established for:

8 (a) State police, local police, and fire department vehicles while the vehicles are
9 being operated in an official capacity on a turnpike project;

10 (b) Emergency vehicles operated by an ambulance service while the vehicles are
11 being operated in an official capacity, in both emergency and nonemergency
12 situations on a turnpike project; and

13 (c) Funeral processions on turnpike projects.

14 (3) To receive the exemption contained in subsection (2) of this section, an ambulance
15 service shall be licensed by the Cabinet for Health and Family Services.

16 Section 144. KRS 186.040 is amended to read as follows:

17 (1) Upon receiving the application and fee, the county clerk shall issue to the owner a
18 certificate of registration containing the information required by subsection (2) of
19 this section and a registration plate. If the cabinet finds that there is a shortage of
20 materials suitable for making plates, or that a substantial saving will result, it may
21 require by regulation with the approval of the Governor that previously issued plates
22 continue to be used for a designated period. Except as provided in subsection (3) of
23 this section, for services performed, the owner shall pay the county clerk the sum of
24 three dollars (\$3) for each registration, or if the registration exceeds a twelve (12)
25 month period, the clerk shall receive a fee of four dollars (\$4).

26 (2) The certificate of registration shall contain the registration number, the name and
27 post office address of the owner, and such other information as the cabinet may

1 require.

2 (3) An owner who registers a vehicle under KRS 186.050 that has a declared gross
3 vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds
4 or greater shall pay the county clerk twenty dollars (\$20) for each registration. The
5 clerk shall retain the twenty dollar (\$20) fee for services performed under this
6 subsection.

7 (4) Any person requesting a certificate of registration or renewal of registration of any
8 type of motor vehicle shall have the opportunity to donate one dollar (\$1) to the
9 child care assistance account. The one dollar (\$1) donation shall be added to the
10 regular fee for vehicle registration. One donation may be made per issuance or
11 renewal of vehicle registration. Donation to the child care assistance account shall
12 be voluntary and may be refused by the applicant at the time of the issuance or
13 renewal of any vehicle registration.

14 (5) The county clerk may retain five percent (5%) of fees collected for the child care
15 assistance account under subsection (4) of this section. The remaining funds shall
16 be deposited into a trust and agency account in the State Treasury to the credit of the
17 Cabinet for **Health and Family Services**~~[Families and Children]~~ for the exclusive
18 use as follows:

- 19 (a) Funds shall be made available to the agencies that administer child care
20 subsidy funds; and
- 21 (b) Funds shall be used as determined by the cabinet for working families whose
22 income exceeds the state income eligibility limits for child day care
23 assistance.

24 Section 145. KRS 186.570 is amended to read as follows:

- 25 (1) The cabinet or its agent designated in writing for that purpose may deny any person
26 an operator's license or may suspend the operator's license of any person, or, in the
27 case of a nonresident, withdraw the privilege of operating a motor vehicle in this

1 state, subject to a hearing and with or without receiving a record of conviction of
2 that person of a crime, if the cabinet has reason to believe that:

3 (a) That person has committed any offenses for the conviction of which
4 mandatory revocation of a license is provided by KRS 186.560.

5 (b) That person has, by reckless or unlawful operation of a motor vehicle, caused,
6 or contributed to an accident resulting in death or injury or serious property
7 damage.

8 (c) That person has a mental or physical disability that makes it unsafe for him to
9 drive upon the highways. The Transportation Cabinet shall, by administrative
10 regulations promulgated pursuant to KRS Chapter 13A, establish a medical
11 review board to provide technical assistance in the review of the driving
12 ability of these persons. The board shall consist of licensed medical and
13 rehabilitation specialists.

14 (d) That person is an habitually reckless or negligent driver of a motor vehicle or
15 has committed a serious violation of the motor vehicle laws.

16 (e) That person has been issued a license without making proper application for
17 it, as provided in KRS 186.412 and administrative regulations promulgated
18 pursuant to KRS Chapter 13A.

19 (f) That person has presented false or misleading information as to the person's
20 residency, citizenship, religious convictions, or immigration status.

21 (g) A person required by KRS 186.480 to take an examination has been issued a
22 license without first having passed the examination.

23 (h) That person has been convicted of assault and battery resulting from the
24 operation of a motor vehicle.

25 (i) That person has failed to appear pursuant to a citation or summons issued by a
26 law enforcement officer of this Commonwealth or any other jurisdiction.

27 (j) That person has failed to appear pursuant to an order by the court to produce

1 proof of security required by KRS 304.39-010 and a receipt showing that a
 2 premium for a minimum policy period of six (6) months has been paid.

3 (2) The cabinet shall deny any person a license or shall suspend the license of an
 4 operator of a motor vehicle upon receiving written notification from the Cabinet for
 5 **Health and Family Services**~~[Families and Children]~~ that the person has a child
 6 support arrearage which equals or exceeds the cumulative amount which would be
 7 owed after one (1) year of nonpayment or failure, after receiving appropriate notice,
 8 to comply with a subpoena or warrant relating to paternity or child support
 9 proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child
 10 support arrearage which exists prior to January 1, 1994, shall not be included in the
 11 calculation to determine whether the license of an operator of a motor vehicle shall
 12 be denied or suspended. The denial or suspension shall continue until the arrearage
 13 has been eliminated, payments on the child support arrearage are being made in
 14 accordance with a court or administrative order, or the person complies with the
 15 subpoena or warrant relating to paternity or child support. Before the license may be
 16 reinstated, proof of elimination of the child support arrearage or proof of
 17 compliance with the subpoena or warrant relating to paternity or child support
 18 proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the
 19 action is pending or the Cabinet for **Health and Family Services**~~[Families and~~
 20 ~~Children]~~ shall be received by the Transportation Cabinet as prescribed by
 21 administrative regulations promulgated by the Cabinet for **Health and Family**
 22 **Services**~~[Families and Children]~~ and the Transportation Cabinet.

23 (3) The cabinet or its agent designated in writing for that purpose shall deny any person
 24 an operator's license or shall suspend the operator's license of any person, or, in the
 25 case of a nonresident, withdraw the privilege of operating a motor vehicle in this
 26 state, where the person has been declared ineligible to operate a motor vehicle under
 27 KRS 532.356 for the duration of the ineligibility, upon notification of the court's

1 judgment.

2 (4) The cabinet or its agent designated in writing for that purpose shall provide any
3 person subject to the suspension, revocation, or withdrawal of their driving
4 privileges, under provisions of this section, an informal hearing. Upon determining
5 that the action is warranted, the cabinet shall notify the person in writing by mailing
6 the notice to the person by first-class mail to the last known address of the person.
7 The hearing shall be automatically waived if not requested within twenty (20) days
8 after the cabinet mails the notice. The hearing shall be scheduled as early as
9 practical within twenty (20) days after receipt of the request at a time and place
10 designated by the cabinet. An aggrieved party may appeal a decision rendered as a
11 result of an informal hearing, and upon appeal an administrative hearing shall be
12 conducted in accordance with KRS Chapter 13B.

13 (5) (a) The cabinet may suspend the operator's license of any resident upon receiving
14 notice of the conviction of that person in another state of an offense
15 there which, if committed in this state, would be grounds for the
16 suspension or revocation of an operator's license. The cabinet shall not
17 suspend an operator's license under this paragraph if:

- 18 1. The conviction causing the suspension or revocation is more than five
19 (5) years old;
- 20 2. The conviction is for a traffic offense other than a felony traffic offense
21 or a habitual violator offense; and
- 22 3. The license holder complies with the provisions of KRS 186.442.

23 (b) If, at the time of application for an initial Kentucky operator's license, a
24 person's license is suspended or revoked in another state for a conviction that
25 is less than five (5) years old, the cabinet shall deny the person a license until
26 the person resolves the matter in the other state and complies with the
27 provisions of this chapter.

1 (c) The cabinet may, upon receiving a record of the conviction in this state of a
2 nonresident driver of a motor vehicle of any offense under the motor vehicle
3 laws, forward a notice of that person's conviction to the proper officer in the
4 state of which the convicted person is a resident.

5 (d) This subsection shall not apply to a commercial driver's license.

6 (6) The Transportation Cabinet is forbidden from suspending or revoking an operator's
7 license or assessing points or any other form of penalty against the license holder
8 for speeding violations or speeding convictions from other states. This subsection
9 shall apply only to speeding violations. This section shall not apply to a commercial
10 driver's license.

11 (7) Each operator's license which has been canceled, suspended, or revoked shall be
12 surrendered to and retained by the cabinet. At the end of the period of cancellation,
13 suspension, or revocation, the license may be returned to the licensee after he has
14 complied with all requirements for the issuance or reinstatement of his driving
15 privilege.

16 (8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be
17 prohibited from raising a policyholder's rates solely because the policyholder's
18 driving privilege has been suspended or denied pursuant to subsection (2) of this
19 section.

20 Section 146. KRS 189A.040 is amended to read as follows:

21 (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court
22 shall sentence the person to attend an alcohol or substance abuse education or
23 treatment program subject to the following terms and conditions for a first offender
24 or a person convicted under KRS 189A.010(1)(e):

25 (a) The treatment or education shall be for a period of ninety (90) days and the
26 program shall provide an assessment of the defendant's alcohol or other
27 substance abuse problems, which shall be performed at the start of the

1 program;

2 (b) Each defendant shall pay the cost of the education or treatment program up to
3 his ability to pay but no more than the actual cost of the treatment;

4 (c) Upon written report to the court by the administrator of the program that the
5 defendant has completed the program recommended by the administrator
6 based upon the assessment of the defendant, the defendant shall be released
7 prior to the expiration of the ninety (90) day period; and

8 (d) Failure to complete the education or treatment program or to pay the amount
9 specified by the court for education or treatment shall constitute contempt, and
10 the court shall, in addition to any other remedy for contempt, reinstitute all
11 penalties which were previously imposed but suspended or delayed pending
12 completion of the education or treatment program.

13 (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall
14 sentence the person to an alcohol or substance abuse treatment program subject to
15 the following terms and conditions for a second offender:

16 (a) The sentence shall be for a period of one (1) year and the program shall
17 provide an assessment of the defendant's alcohol or other substance abuse
18 problems, which shall be performed at the start of the program;

19 (b) Each defendant shall pay the cost of the treatment program up to his ability to
20 pay but no more than the actual cost of the treatment;

21 (c) Upon written report to the court by the administrator of the program that the
22 defendant has completed the program recommended by the administrator
23 based upon the assessment of the defendant, the defendant may be released
24 prior to the expiration of the one (1) year period; and

25 (d) Failure to complete the treatment program or to pay the amount specified by
26 the court for treatment shall constitute contempt of court and the court shall,
27 in addition to any other remedy for contempt, reinstitute all penalties which

1 were previously imposed but suspended or delayed pending the completion of
2 the treatment program.

3 (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court
4 shall sentence the person to an alcohol or substance abuse treatment program
5 subject to the following terms and conditions for a third or subsequent offender:

6 (a) The sentence shall be for a period of one (1) year and the program shall
7 provide an assessment of the defendant's alcohol or other substance abuse
8 problems, which shall be performed at the start of the program. The program
9 may be an inpatient or residential-type program;

10 (b) Each defendant shall pay the cost of the treatment program up to his ability to
11 pay but no more than the actual cost of the program;

12 (c) A defendant, upon written recommendation to the court by the administrator
13 of the program, may be released from the inpatient or residential program
14 prior to the expiration of one (1) year but shall be retained in the program on
15 an outpatient basis for the remainder of the year period; and

16 (d) Failure to complete the treatment program or to pay the amount specified by
17 the court for treatment shall constitute contempt of court, and the court shall,
18 in addition to any other remedy for contempt, reinstitute all penalties which
19 were previously imposed but suspended or delayed pending completion of the
20 treatment program.

21 (4) Costs of treatment or education programs which are paid from the service fee
22 established by KRS 189A.050, or from state or federal funds, or any combination
23 thereof, shall be deducted from the amount which the defendant must pay.

24 (5) For the purposes of this section, "treatment" means service in an alcohol or
25 substance abuse education or treatment program or facility licensed, regulated, and
26 monitored by the Cabinet for Health and Family Services for services as required
27 under this section.

1 (6) The Cabinet for Health and Family Services shall promulgate administrative
2 regulations for the licensure of education and treatment facilities and programs for
3 offenders receiving education or treatment under this section. The criteria developed
4 by the Cabinet for Health and Family Services shall include:

- 5 (a) Manner of assessment;
- 6 (b) Appropriate education and treatment plans; and
- 7 (c) Referrals to other treatment providers.

8 (7) The participating facilities and programs shall be required to abide by these
9 standards and shall report completion to the Transportation Cabinet. Upon request,
10 the facility or program shall report to the courts regarding the progress of offenders
11 being treated pursuant to this section.

12 (8) Administrative decisions regarding the licensure of education and treatment
13 facilities and programs may be appealed, and upon appeal an administrative hearing
14 shall be conducted in accordance with KRS Chapter 13B.

15 Section 147. KRS 189A.050 is amended to read as follows:

16 (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be
17 sentenced to pay a service fee of three hundred twenty-five dollars (\$325), which
18 shall be in addition to all other penalties authorized by law.

19 (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS
20 534.020 relating to the method of imposition and KRS 534.060 as to remedies for
21 nonpayment of the fee.

22 (3) The revenue collected from the service fee imposed by this section shall be utilized
23 as follows:

- 24 (a) Twelve percent (12%) of the amount collected shall be transferred to the
25 Kentucky State Police forensic laboratory for the acquisition, maintenance,
26 testing, and calibration of alcohol concentration testing instruments and the
27 training of laboratory personnel to perform these tasks;

- 1 (b) Twenty percent (20%) of the service fee collected pursuant to this section
2 shall be allocated to the Department of Public Advocacy;
- 3 (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for
4 training of prosecutors for the prosecution of persons charged with violations
5 of this chapter and for obtaining expert witnesses in cases involving the
6 prosecution of persons charged with violations of this chapter or any other
7 offense in which driving under the influence is a factor in the commission of
8 the offense charged;
- 9 (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
- 10 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust
11 fund established under KRS 211.476; and
- 12 2. Fifty percent (50%) shall be credited to the Cabinet for Health and
13 Family Services, Department for Mental Health and Mental Retardation
14 Services, for the purposes of providing direct services to individuals
15 with brain injuries that may include long-term supportive services and
16 training and consultation to professionals working with individuals with
17 brain injuries. As funding becomes available under this subparagraph,
18 the cabinet may promulgate administrative regulations pursuant to KRS
19 Chapter 13A to implement the services permitted by this subparagraph.
- 20 (e) Any amount specified by a specific statute shall be transferred as provided in
21 that statute;
- 22 (f) Forty-six percent (46%) of the amount collected shall be transferred to be
23 utilized to fund enforcement of this chapter and for the support of jails,
24 recordkeeping, treatment, and educational programs authorized by this chapter
25 and by the Department of Public Advocacy; and
- 26 (g) The remainder of the amount collected shall be transferred to the general fund.
- 27 (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be

1 placed in trust and agency accounts that shall not lapse.

2 Section 148. KRS 199.570 is amended to read as follows:

3 (1) (a) The files and records of the court during adoption proceedings shall not be
4 open to inspection by persons other than parties to the proceedings, their
5 attorneys, and representatives of the cabinet except under order of the court
6 expressly permitting inspection.

7 (b) Upon the entry of the final order in the case, the clerk shall place all papers
8 and records in the case in a suitable envelope which shall be sealed and shall
9 not be open for inspection by any person except on written order of the court,
10 except that upon the written consent of the biological parents and upon written
11 order of the Circuit Court all papers and records including all files and records
12 of the Circuit Court during proceedings for termination of parental rights
13 provided in KRS 625.108 shall be open for inspection to any adult adopted
14 person who applies in person or in writing to the Circuit Court as provided in
15 KRS 199.572. Health information received pursuant to KRS 199.525 shall be
16 added to the adoption case file. The clerk of the Circuit Court shall set up a
17 separate docket and order book for adoption cases and these files and records
18 shall be kept locked.

19 (c) No person having charge of any adoption records shall disclose the names of
20 any parties appearing in such records or furnish any copy of any such records
21 to any person or other entity that does not meet the requirements of KRS
22 199.572, except upon order of the court which entered the judgment of
23 adoption.

24 (2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly
25 report to the Cabinet for Health and Family Services of Kentucky full information
26 as called for on forms furnished by the Cabinet for Health and Family Services,
27 necessary to make a new birth certificate conforming to the standard birth certificate

1 form. Upon receipt of this information, the Cabinet for Health and Family Services
2 shall cause to be made a new record of the birth and it shall be filed with the
3 original certificate, and the original certificate shall be stamped with the words,
4 "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the
5 court."

- 6 (3) The new certificate shall set forth the new name, if any, of the adopted child, the
7 names of the adoptive parents, and such other information deemed necessary in
8 accordance with rules and regulations promulgated by the Cabinet for Health and
9 Family Services in issuing of birth certificates. If the adopted child is under
10 eighteen (18) years of age, the birth certificate shall not contain any information
11 revealing the child is adopted and shall show the adoptive parent or parents as the
12 biological parent or parents of the child. If requested by the adoptive parents, the
13 new birth certificate when issued shall contain the location of birth, hospital, and
14 name of doctor or midwife. This information should be given only by an order of
15 the court in which the child was adopted. The new birth certificate shall recite the
16 residence of the adoptive parents as the birthplace of the child and this shall be
17 deemed for all legal purposes to be the birthplace of the child. If no birth certificate
18 is on file for a child born in Kentucky, the Cabinet for Health and Family Services
19 shall prepare a certificate of birth in accordance with the information furnished the
20 cabinet by the clerk of the Circuit Court which issued the adoption order. The
21 Cabinet for Health and Family Services shall furnish to the clerks of the Circuit
22 Courts the necessary forms to carry out the provisions of this section. If the child
23 was born in another state, the order of adoption shall be forwarded to the division of
24 vital statistics of the state concerned to be changed in accordance with the laws of
25 such state. If the child was born in a foreign country, the report of adoption shall be
26 returned to the attorney or agency handling the adoption for submission to the
27 appropriate federal agency.

1 (4) Thereafter when any copy of the certificate of birth of any child is issued it shall be
 2 a copy of the new certificate of birth, except when an order of the court granting the
 3 judgment of adoption shall request the issuance of the copy of the original
 4 certificate of the child's birth.

5 (5) If any judgment of adoption is reversed, modified, or vacated in any particular, the
 6 clerk of the Circuit Court shall notify the Cabinet for Health and Family Services
 7 of the reversal or modification and the effect of same, and the cabinet shall make
 8 any necessary changes in its records.

9 Section 149. KRS 194.245 is amended to read as follows:

10 (1) No later than August 1, 1990, the Cabinet for Human Resources shall begin
 11 contracting to construct and operate, or lease and operate the following:

- 12 (a) A one hundred (100) bed inpatient mental health facility in eastern Kentucky;
- 13 (b) Twelve (12) child-care centers with a minimum of one (1) center in each of
 14 the seven (7) Kentucky congressional districts;
- 15 (c) Four (4) eight (8) bed group homes for persons with mental retardation;
- 16 (d) Two (2) one hundred (100) bed personal care homes; and
- 17 (e) Twelve (12) senior citizens centers with a minimum of one (1) center in each
 18 of the seven (7) Kentucky congressional districts.

19 (2) Effective August 1, 2000, the Cabinet for Health and Family Services~~[Families~~
 20 ~~and Children]~~, as the successor agency to the Cabinet for Human Resources with
 21 the responsibility for the operation of child-care centers as identified in subsection
 22 (1)(b) of this section, may transfer the ownership of all real property relating to any
 23 child-care center, with the approval of the Finance and Administration Cabinet, and
 24 all operational and administrative responsibility over any child-care center, and any
 25 contract, agreement, or lease that the Cabinet for Health and Family
 26 Services~~[Families and Children]~~ has assumed or executed for the operation of any
 27 child-care center to the city, county, or urban-county government in which the

center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

- (3) Effective August 1, 2000, the Cabinet for Health and Family Services, as the successor agency to the Cabinet for Human Resources with the responsibility for the operation of senior citizens centers as identified in subsection (1)(e) of this section, may transfer the ownership of all real property relating to any senior citizens center, with the approval of the Finance and Administration Cabinet, and all operational and administrative responsibility over any senior citizens center, and any contract, agreement, or lease that the Cabinet for Health and Family Services has assumed or executed for the operation of any senior citizens center, to the city, county, or urban-county government in which the center is located. Any transfer made under this section shall provide for the continued operation of a center in accordance with the public purpose set forth in subsection (1) of this section.

Section 150. KRS 194A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Cabinet" means the Cabinet for Health and Family Services; and
- (2) "Secretary" means the secretary for health and family services.

Section 151. KRS 194A.025 is amended to read as follows:

- (1) The secretary for health and family services and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (2) The secretary may delegate any duties of the office of secretary to employees of the cabinet as the secretary deems necessary and appropriate, unless otherwise

1 prohibited by statutes.

2 (3) The secretary may enter into any contracts and agreements with individuals,
3 colleges, universities, associations, corporations, municipalities, and other units of
4 government as may be deemed necessary to carry out the general intent and
5 purposes of the cabinet.

6 Section 152. KRS 194A.055 is amended to read as follows:

7 There is established in the State Treasury a fund to be known as the "Kentucky Health
8 Care Improvement Fund." This fund shall exist for the purpose of receipt and expenditure
9 of moneys to improve health care and access to health insurance residents of the
10 Commonwealth. The fund may receive state appropriations, gifts, grants, and federal
11 funds and shall be disbursed by the State Treasury upon the warrant of the secretary of the
12 Cabinet for Health and Family Services. Beginning July 1, 2000, twenty-five percent
13 (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in
14 this fund as provided under KRS 248.654. All investment income earned from moneys
15 deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at
16 the close of any fiscal year but shall be carried forward in the next fiscal year for the
17 purpose of the fund. The board shall develop and oversee the implementation of a
18 strategic plan. The strategic plan shall identify both short-term and long-term goals and
19 the appropriate oversights to measure progress toward achievement of those goals, and it
20 shall be updated every two (2) years. The board shall submit an annual report to the
21 Governor and the Legislative Research Commission by September 1 of each year for the
22 preceding fiscal year, outlining its activities and expenditures. The Auditor of Public
23 Accounts, on an annual basis, shall conduct a thorough review of all expenditures from
24 the fund and, if necessary in the opinion of the Auditor, an audit of the operations of the
25 fund. No money in the fund shall be allocated until the board has adopted a strategic plan.

26 Section 153. KRS 194A.065 is amended to read as follows:

27 (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice,

1 the Department of Corrections, the Administrative Office of the Courts, and the
 2 Kentucky State Police shall be responsible for the recording of those data elements
 3 that are needed for the development of the centralized criminal history record
 4 information system.

5 (2) The database shall at a minimum contain the information required in KRS 27A.310
 6 to 27A.440.

7 (3) The Cabinet for Health and Family Services shall provide access to the Kentucky
 8 State Police, the Department of Corrections, the Department of Juvenile Justice, and
 9 the Administrative Office of the Courts to its database.

10 Section 154. KRS 194A.095 is amended to read as follows:

11 (1) There is created in the Cabinet for Health and Family Services a Division~~an~~
 12 ~~Office~~ of Women's Physical and Mental Health for the purpose of:

13 (a) Serving as a repository for data and information affecting women's physical
 14 and mental health issues;

15 (b) Analyzing and communicating trends in women's health issues and mental
 16 health;

17 (c) Recommending to the Cabinet for Health and Family Services and to any
 18 advisory committees created under KRS 216.2923, data elements affecting
 19 women's physical and mental health. The division~~office~~ shall advise and
 20 direct which data elements should be collected, analyzed, and reported in a
 21 timely manner under KRS 216.2920 to 216.2929;

22 (d) Cooperating and collaborating with the Cabinet for Health and Family
 23 Services in receiving and disseminating through all forms of media including
 24 the internet relevant aggregate data findings under KRS 216.2920 to 216.2929
 25 which affect women; and

26 (e) Planning, developing, and administering a Women's Health Resource Center
 27 within the Cabinet for Health and Family Services to focus on targeted

1 preventive care and comprehensive health education.

2 (2) The division~~[office]~~ may accept gifts, grants, and bequests in support of its mission
3 and duties specified in subsection (1) of this section. All money received shall be
4 administered by the cabinet, which shall administer these funds through appropriate
5 trust and agency accounts.

6 Section 155. KRS 194A.110 is amended to read as follows:

7 The Advisory Council for Medical Assistance, established by KRS 205.540, and its
8 associated bodies are attached to the Department for Medicaid Services for administrative
9 and support purposes. The Advisory Council for Medical Assistance shall advise the
10 secretary for health and family services and the commissioner for Medicaid services on
11 the administration and operation of the Medical Assistance Program.

12 Section 156. KRS 194A.135 is amended to read as follows:

13 (1) The Kentucky Council on Developmental Disabilities is created within the cabinet.

14 (2) The Kentucky Council on Developmental Disabilities is established to comply with
15 the requirements of the Developmental Disabilities Act of 1984 and any subsequent
16 amendment to that act.

17 (3) The members of the Kentucky Council on Developmental Disabilities shall be
18 appointed by the Governor to serve as advocates for persons with developmental
19 disabilities. The council shall be composed of twenty-six (26) members.

20 (a) Ten (10) members shall be representatives of: the principal state agencies
21 administering funds provided under the Rehabilitation Act of 1973 as
22 amended; the state agency that administers funds provided under the
23 Individuals with Disabilities Education Act (IDEA); the state agency that
24 administers funds provided under the Older Americans Act of 1965 as
25 amended; the single state agency designated by the Governor for
26 administration of Title XIX of the Social Security Act for persons with
27 developmental disabilities; higher education training facilities, each

1 university-affiliated program or satellite center in the Commonwealth; and the
 2 protection and advocacy system established under Public Law 101-496. These
 3 members shall represent the following:

- 4 1. Department for Vocational Rehabilitation;
- 5 2. Department for the Blind;
- 6 3. Division of Exceptional Children, within the Department of Education;
- 7 4. Division~~Office~~ of Aging Services;
- 8 5. Department for Medicaid Services;
- 9 6. Department of Public Advocacy, Protection and Advocacy Division;
- 10 7. University-affiliated programs;
- 11 8. Local and nongovernmental agencies and private nonprofit groups
- 12 concerned with services for persons with developmental disabilities;
- 13 9. Department for Mental Health and Mental Retardation Services; and
- 14 10. Department for Public Health, Division of Adult and Child Health
- 15 Improvement.

- 16 (b) At least sixty percent (60%) of the members of the council shall be composed
 17 of persons with developmental disabilities or the parents or guardians of
 18 persons, or immediate relatives or guardians of persons with mentally
 19 impairing developmental disabilities, who are not managing employees or
 20 persons with ownership or controlling interest in any other entity that receives
 21 funds or provides services under the Developmental Disabilities Act of 1984
 22 as amended and who are not employees of a state agency that receives funds
 23 or provides services under this section. Of these members, five (5) members
 24 shall be persons with developmental disabilities, and five (5) members shall
 25 be parents or guardians of children with developmental disabilities or
 26 immediate relatives or guardians of adults with mentally impairing
 27 developmental disabilities who cannot advocate for themselves. Six (6)

1 members shall be a combination of individuals in these two (2) groups, and at
2 least one (1) of these members shall be an immediate relative or guardian of
3 an institutionalized or previously institutionalized person with a
4 developmental disability or an individual with a developmental disability who
5 resides in an institution or who previously resided in an institution.

6 (c) Members not representing principal state agencies shall be appointed for a
7 term of three (3) years. Members shall serve no more than two (2) consecutive
8 three (3) year terms. Members shall serve until their successors are appointed
9 or until they are removed for cause.

10 (d) The council shall elect its own chair, adopt bylaws, and operate in accordance
11 with its bylaws. Members of the council who are not state employees shall be
12 reimbursed for necessary and actual expenses. The cabinet shall provide
13 personnel adequate to insure that the council has the capacity to fulfill its
14 responsibilities. The council shall be headed by an executive director. If the
15 executive director position becomes vacant, the council shall be responsible
16 for the recruitment and hiring of a new executive director.

17 (4) The Kentucky Council on Developmental Disabilities shall:

18 (a) Develop, in consultation with the cabinet, and implement the state plan as
19 required by Part B of the Developmental Disabilities Act of 1984, as
20 amended, with a goal of development of a coordinated consumer and family
21 centered focus and direction, including the specification of priority services
22 required by that plan;

23 (b) Monitor, review, and evaluate, not less often than annually, the
24 implementation and effectiveness of the state plan in meeting the plan's
25 objectives;

26 (c) To the maximum extent feasible, review and comment on all state plans that
27 relate to persons with developmental disabilities;

- (d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;
- (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
- (f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
- (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Section 157. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for **Health and Family Services**~~[Families and Children]~~, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, the secretary of the Labor Cabinet, or any combination of the above as may be appropriate, to be voting members of

1 expanded citizens' councils for the purposes of these federal programs. The secretary shall
2 exercise this prerogative only when the federal programs specifically require that state
3 officials be voting members of the citizens' councils.

4 Section 158. KRS 194A.360 is amended to read as follows:

5 The Cabinet for Health *and Family* Services shall update its database within thirty (30)
6 days of receipt of information. The update shall include information from the:

- 7 (1) Offender records;
- 8 (2) Institutional records; and
- 9 (3) Administrative records.

10 Section 159. KRS 194A.400 is amended to read as follows:

11 As used in this section and KRS 194A.410:

12 (1) "Bioterrorism" means the intentional use, to cause or attempt to cause death,
13 disease, or other biological malfunction in any living organism, of any of the
14 following:

- 15 (a) Microorganism;
- 16 (b) Virus;
- 17 (c) Infectious substance; or
- 18 (d) Biological product that may be engineered as a result of biotechnology or any
19 naturally occurring or bioengineered component of any microorganism, virus,
20 infectious substance, or biological product;

21 (2) "Commissioner" means the commissioner of the Department for Public Health
22 within the Cabinet for Health *and Family* Services;

23 (3) "Department" means the Department for Public Health within the Cabinet for
24 Health *and Family* Services;

25 (4) "Disaster location" means any geographical location where a bioterrorism attack,
26 terrorist attack, catastrophic event, natural disaster, or emergency occurs; and

27 (5) "Emergency responder" means state or local law enforcement personnel, fire

1 department personnel, corrections officers, and emergency medical personnel who
2 may be deployed to a bioterrorism attack, terrorist attack, catastrophic event, natural
3 disaster, or emergency.

4 Section 160. KRS 194A.540 is amended to read as follows:

5 (1) The secretary for health and family services shall, in consultation with the
6 applicable licensure board, develop domestic violence-related training courses that
7 are appropriate for the following professions:

8 (a) Mental health professionals licensed or certified under KRS Chapters 309,
9 319, and 335;

10 (b) Alcohol and drug counselors certified under KRS Chapter 309;

11 (c) Physicians who practice primary care, as defined in KRS 164.925, or who
12 meet the definition of a psychiatrist under KRS 202A.011, and who are
13 licensed under KRS Chapter 311;

14 (d) Nurses licensed under KRS Chapter 314;

15 (e) Paramedics certified under KRS Chapter 311;

16 (f) Emergency medical technicians certified under KRS Chapter 211; and

17 (g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS
18 72.240.

19 (2) The courses shall include the dynamics of domestic violence, effects of domestic
20 violence on adult and child victims, legal remedies for protection, lethality and risk
21 issues, model protocols for addressing domestic violence, available community
22 resources and victim services, and reporting requirements. The training shall be
23 developed in consultation with legal, victim services, victim advocacy, and mental
24 health professionals with an expertise in domestic violence.

25 (3) Any health-care or mental health professional identified in subsection (1) of this
26 section shall successfully complete a three (3) hour training course that meets the
27 requirements of subsection (2) of this section. Health care or mental health

professionals identified in subsection (1) of this section who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

Section 161. KRS 194A.700 is amended to read as follows:

As used in KRS 194A.700 to 194A.729:

- (1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "Assistance with self-administration of medication" means:
 - (a) Reminding the client to take medications;
 - (b) Reading the medication's label;
 - (c) Confirming that medication is being taken by the client for whom it is prescribed;
 - (d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;
 - (e) Storing the medication in a manner that is accessible to the client; and
 - (f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;
- (3) "Assisted-living community" means a series of living units on the same site, operated as one (1) business entity, and certified under KRS 194A.707 to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;
- (4) "Client" means an adult person who has entered into a lease agreement with an assisted-living community;
- (5) "Danger" means physical harm or threat of physical harm to one's self or others;
- (6) "Health services" has the same meaning as in KRS 216B.015;
- (7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores,

1 transportation, and clerical assistance;

2 (8) "Living unit" means a portion of an assisted-living community occupied as the
3 living quarters of a client under a lease agreement;

4 (9) "Mobile nonambulatory" means unable to walk without assistance, but able to move
5 from place to place with the use of a device including, but not limited to, a walker,
6 crutches, or wheelchair; and

7 (10) "Division~~[Office]~~" means the Division~~[Office]~~ of Aging Services.

8 Section 162. KRS 194A.705 is amended to read as follows:

9 (1) The assisted-living community shall provide each client with the following services
10 according to the lease agreement:

11 (a) Assistance with activities of daily living and instrumental activities of daily
12 living;

13 (b) Three (3) meals and snacks made available each day;

14 (c) Scheduled daily social activities that address the general preferences of
15 clients; and

16 (d) Assistance with self-administration of medication.

17 (2) Clients of an assisted-living community may arrange for additional services under
18 direct contract or arrangement with an outside agent, professional, provider, or other
19 individual designated by the client if permitted by the policies of the assisted-living
20 community.

21 (3) Upon entering into a lease agreement, an assisted-living community shall inform the
22 client in writing about policies relating to the contracting or arranging for additional
23 services.

24 (4) Each assisted-living community shall assist each client upon a move-out notice to
25 find appropriate living arrangements. Each assisted-living community shall share
26 information provided from the division~~[office]~~ regarding options for alternative
27 living arrangements at the time a move-out notice is given to the client.

1 Section 163. KRS 194A.707 is amended to read as follows:

2 (1) The Cabinet for Health and Family Services shall establish by the promulgation of
3 administrative regulation under KRS Chapter 13A, an initial and annual
4 certification review process for assisted-living communities that shall include an on-
5 site visit. This administrative regulation shall establish procedures related to
6 applying for, reviewing, and approving, denying, or revoking certification, as well
7 as the conduct of hearings upon appeals as governed by KRS Chapter 13B.

8 (2) No assisted-living community shall operate unless its owner or manager has:

9 (a) Filed a current application for the assisted-living community to be certified by
10 the division~~[office]~~; or

11 (b) Received certification of the assisted-living community from the
12 division~~[office]~~.

13 (3) No business shall market its services as an assisted-living community unless its
14 owner or manager has:

15 (a) Filed a current application for the assisted-living community to be certified by
16 the division~~[office]~~; or

17 (b) Received certification of the assisted-living community from the
18 division~~[office]~~.

19 (4) The division~~[office]~~ shall determine the feasibility of recognizing accreditation by
20 other organizations in lieu of certification from the division~~[office]~~.

21 (5) Individuals designated by the division~~[office]~~ to conduct certification reviews shall
22 have the skills, training, experience, and ongoing education to perform certification
23 reviews.

24 (6) Upon conducting a certification review, the division~~[office]~~ shall assess an assisted-
25 living community certification fee in the amount of twenty dollars (\$20) per living
26 unit that in the aggregate for each assisted-living community is no less than three
27 hundred dollars (\$300) and no more than one thousand six hundred dollars

(7) (\$1,600). The office shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews.

- (7) Notwithstanding any provision of law to the contrary, the division~~[office]~~ may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.

Section 164. KRS 194A.709 is amended to read as follows:

- (1) The division~~[office]~~ shall report to the Division of *Health Care Facilities and Services*~~[Long Term Care]~~ any alleged or actual cases of health services being delivered by the staff of an assisted-living community.

- (2) An assisted-living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.

- (3) Any assisted-living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

Section 165. KRS 194A.715 is amended to read as follows:

- (1) An assisted-living community shall provide any interested person with a:
- (a) Consumer publication, as approved by the division~~[office]~~, that contains a thorough description of Kentucky laws and regulations governing assisted-living communities;
 - (b) Standard consumer checklist provided by the division~~[office]~~; and
 - (c) Description of any special programming, staffing, or training if the assisted-living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.

- (2) An assisted-living community may refer a request for information required in

subsection (1)(a) of this section to the division~~[office]~~.

Section 166. KRS 194A.723 is amended to read as follows:

(1) Any assisted-living community that provides services without filing a current application with the division~~[office]~~ or receiving certification by the division~~[office]~~ may be fined up to five hundred dollars (\$500) per day.

(2) Any business that markets its services as an assisted-living community without filing a current application with the division~~[office]~~ or receiving certification by the division~~[office]~~ may be fined up to five hundred dollars (\$500) per day.

Section 167. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the division~~[office]~~ shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The division~~[office]~~ may charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender.

Section 168. KRS 194A.735 is amended to read as follows:

(1) Subject to sufficient funding, the Cabinet for Health and Family Services and, the Justice Cabinet~~[-, and the Cabinet for Families and Children]~~, in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning on a voluntary basis to persons exiting from state-operated or supervised institutions involving mental health and foster care programs, and persons serving out their sentences in any state-operated prison in Oldham County.

(2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Health and Family Services~~[Families and Children]~~, state-operated prison in Oldham County under supervision by the Justice Cabinet, and mental health facility under supervision by

1 the Cabinet for Health and Family Services for return or reentry into the
2 community, and to offer information about any necessary linkage of the person to
3 needed community services and supports.

4 (a) The pilot project shall be jointly supported by each of the cabinets. One (1)
5 office for the pilot project shall be located in a family resource center or
6 Department for Community Based Services building in Jefferson County, due
7 to its urban population, and one (1) office shall be located in Clinton,
8 Cumberland, McCreary, or Wayne County, due to its rural population. The
9 pilot project office in Jefferson County shall serve persons intending to locate
10 in Jefferson County who are being released from a mental health facility under
11 supervision by the Cabinet for Health and Family Services and persons
12 intending to locate in Jefferson County who are being released after serving
13 out their sentences from any state-operated prison in Oldham County. The
14 pilot project office in Clinton, Cumberland, McCreary, or Wayne County shall
15 serve persons intending to locate in Clinton, Cumberland, McCreary, or
16 Wayne County who are aging out of the foster care program following
17 placement in Clinton, Cumberland, McCreary, or Wayne County.

18 (b) Within thirty (30) days following July 13, 2004, the cabinets shall supply each
19 pilot project director with the collection of information on available
20 employment, social, housing, educational, medical, mental health, and other
21 community services in the county. The information shall include but not be
22 limited to the service area of each public and private provider of services, the
23 capacity of each provider to render services to persons served by the pilot
24 project, the fees of each provider, contact names and telephone numbers for
25 each provider, and an emergency contact for each provider.

26 (c) Within thirty (30) days following July 13, 2004, the cabinets and directors
27 shall begin a program of education for each of the cabinet and foster home and

1 mental health and appropriate state-operated prison facility staff who will
2 participate in the development of a discharge plan for volunteer participants
3 under this section.

4 (3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons
5 eligible for discharge or completing their sentence shall be offered the opportunity
6 to participate in the pilot program. This offer shall be made at least six (6) months
7 prior to discharge. There shall be a cap on the number of persons served in each
8 office, to be determined by available funding and staffing requirements.

9 (a) The staff member designated as the homelessness prevention coordinator for
10 each foster home or mental health facility shall maintain a file for each
11 volunteer participant in the foster home or mental health facility, relating to
12 the participant's employment, social, housing, educational, medical, and
13 mental health needs. This file shall be updated from time to time as
14 appropriate and pursuant to an administrative regulation promulgated by the
15 cabinet in accordance with KRS Chapter 13A that establishes standards for
16 the discharge summary. The staff member designated as the homelessness
17 prevention coordinator for the appropriate state-operated prison participating
18 in the pilot project shall maintain a file containing appropriate forms
19 completed and updated by each person voluntarily participating in the pilot
20 project, relating to the information provided under subsection (6) of this
21 section. All applicable privacy and confidentiality laws shall be followed in
22 assembling and maintaining this file.

23 (b) Six (6) months prior to the expected date of discharge, the discharge
24 coordinator for each foster home and mental health and state-operated prison
25 facility shall contact the homelessness prevention director for Jefferson
26 County or the homelessness prevention director for Clinton, Cumberland,
27 McCreary, or Wayne County, as appropriate, about the pending release of the

1 volunteer participant who is eligible for discharge from a foster home or
 2 mental health facility or who will have served out his or her sentence in a
 3 state-operated prison facility that is participating in the pilot project. The
 4 director shall visit the home or facility, as appropriate, to assist with the
 5 preparation of the final comprehensive discharge plan.

6 (c) The director and the discharge coordinator for each participating foster home
 7 and mental health and state-operated prison facility shall work together to
 8 develop a final comprehensive discharge plan that addresses the employment,
 9 health care, educational, housing, and other needs of the person to be released,
 10 subject to the consent of the person and the funding and staffing capabilities
 11 of the director. Information provided by the coordinator may include and be
 12 limited to, subject to the staffing and funding capabilities of the coordinator,
 13 information provided by the person to be released on a form or forms made
 14 available by the foster home or mental health or state-operated prison facility.
 15 The discharge plan shall contain but not be limited to the following:

- 16 1. Estimated discharge date from the foster home, state-operated prison
 17 facility, or mental health facility;
- 18 2. Educational background of the person to be released, including any
 19 classes completed or skills obtained by the person while in the foster
 20 home, state-operated prison facility, or mental health facility;
- 21 3. The person's medical and mental health needs;
- 22 4. Other relevant social or family background information;
- 23 5. A listing of previous attempts to arrange for post-release residence,
 24 employment, medical and mental health services, housing, education,
 25 and other community-based services for the person; and
- 26 6. Other available funding and public programs that may reimburse any
 27 services obtained from a provider listed in the discharge plan. Every

1 effort shall be made in the discharge plan to refer the person to a
 2 provider that has agreed to an arranged public or private funding
 3 arrangement.

4 No discharge plan shall be completed unless the written consent, consistent
 5 with state and federal privacy laws, to compile the information and prepare the
 6 plan has been given by the person eligible for release who has volunteered to
 7 participate in the pilot program.

8 (4) The director shall assist with the completion of a final comprehensive discharge
 9 plan that may include, but need not be limited to, the following:

- 10 (a) Availability of appropriate housing, including but not limited to a twenty-four
 11 (24) month transitional program, supportive housing, or halfway house.
 12 Planning discharge to an emergency shelter is not appropriate to meet the
 13 housing needs of the person being discharged from foster care, a state-
 14 operated prison facility, or a mental health facility;
- 15 (b) Access to appropriate treatment services for participants who require follow-
 16 up treatment;
- 17 (c) Availability of appropriate employment opportunities, including assessment of
 18 vocational skills and job training; and
- 19 (d) Identification of appropriate opportunities to further education.

20 (5) Discharge planning shall be individualized, comprehensive, and coordinated with
 21 community-based services.

- 22 (a) Each discharge plan shall create a continuous, coordinated, and seamless
 23 system that is designed to meet the needs of the person.
- 24 (b) Staff of the foster home or facility and staff of community-based services
 25 providers shall be involved in the planning.
- 26 (c) Each facility shall utilize, wherever possible, community-based services
 27 within the facility to establish familiarity of the person residing in the facility

1 with the community services.

2 (6) The Department of Corrections shall, through an administrative regulation
3 promulgated in accordance with KRS Chapter 13A, develop a discharge plan that
4 addresses the education; employment, technical, and vocational skills; and housing,
5 medical, and mental health needs of a person who is to be released after serving out
6 his or her sentence in a state-operated prison facility participating in the pilot
7 project.

8 (7) Appropriate data about discharge placements and follow-up measures shall be
9 collected and analyzed. The analysis shall be included in the interim and final
10 reports of the pilot program specified in subsection (8) of this section.

11 (8) Each homelessness prevention director shall have regular meetings with appropriate
12 state cabinet and agency staff to review the pilot project and make recommendations
13 for the benefit of the program. Each director shall be assisted by a local advisory
14 council composed of local providers of services and consumer advocates who are
15 familiar with homelessness prevention issues. Priority for membership on the
16 advisory council shall be given to existing resources and regional mental health and
17 substance abuse advisory councils at the discretion of the director.

18 (9) Each cabinet shall collect data about the discharge plans, referrals, costs of services,
19 and rate of recidivism related to the homelessness prevention program, and shall
20 submit an annual report to the Governor and the Legislative Research Commission
21 no later than October 1 that summarizes the data and contains recommendations for
22 the improvement of the program. The annual report also shall be forwarded to the
23 Kentucky Commission on Services and Supports for Individuals with Mental
24 Retardation and Other Developmental Disabilities, Kentucky Commission on
25 Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug
26 Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation
27 Homelessness Policy Council.

1 Section 169. KRS 196.093 is amended to read as follows:

2 The Department of Corrections shall, in cooperation with the Kentucky State Police, the
3 Department of Juvenile Justice, the Cabinet for Health and Family Services, and the
4 Administrative Office of the Courts, be responsible for the recording of those data
5 elements that are needed for the development of the centralized criminal history record
6 information system:

7 (1) The database shall at a minimum contain the information required in KRS 27A.310
8 to 27A.440;

9 (2) The Department of Corrections shall provide access to the Kentucky State Police,
10 the Department of Juvenile Justice, the Cabinet for Health and Family Services,
11 and the Administrative Office of the Courts to its database; and

12 (3) The Department of Corrections shall assign the same identification number or other
13 variable to each person whose name appears in the database.

14 Section 170. KRS 196.171 is amended to read as follows:

15 (1) The Department of Corrections shall develop an educational course on the human
16 immunodeficiency virus infection and acquired immunodeficiency syndrome
17 approved by the Cabinet for Health and Family Services of not more than four (4)
18 hours for the instruction of corrections personnel who have day-to-day contact with
19 incarcerated persons and personnel who may be expected to respond to crisis
20 situations. The literature and training curriculum shall include information of
21 known modes of transmission and methods of controlling and preventing these
22 diseases with an emphasis on appropriate behavior and attitude change. The training
23 may be part of any continuing education program.

24 (2) All persons referred to in subsection (1) of this section shall successfully complete
25 the training required. Any person holding the position referred to in subsection (1)
26 of this section shall not fill that position for more than one (1) year without
27 successful completion of the required training. If a person does not successfully

1 complete the required training within the time specified, he shall be suspended from
2 further service until he successfully completes the required training.

3 Section 171. KRS 197.055 is amended to read as follows:

4 (1) The Department of Corrections, in conjunction with the Cabinet for Health and
5 Family Services, shall establish a mandatory introductory and continuing education
6 program on human immunodeficiency virus and acquired immunodeficiency
7 syndrome for all inmates. Programs shall be specifically designed for inmates while
8 incarcerated and in preparation for release into the community. Consideration shall
9 be given to cultural and other relevant differences among inmates in the
10 development of educational materials and shall include emphasis on behavior and
11 attitude change. The education program shall be continuously updated to reflect the
12 latest medical information available.

13 (2) If there is evidence that an inmate, while in the custody of the department, has
14 engaged in behavior which places the inmate at a high risk of transmitting or
15 contracting a human immunodeficiency disorder, the department shall begin a
16 testing program which is consistent with guidelines of the Centers for Disease
17 Control and recommendations of the correctional medical authority and shall target
18 persons who have been involved in or reasonably thought to have been involved in
19 a high-risk behavior. For purposes of this subsection, "high-risk behavior" includes:

- 20 (a) Sexual contact with any person within the institution;
- 21 (b) The use of intravenous drugs;
- 22 (c) Tattooing; and
- 23 (d) Any other activity medically known to transmit the virus.

24 (3) The results of the tests shall become a part of that inmate's medical file, accessible
25 only to persons designated by agency administrative regulations.

26 (4) The department shall establish policies consistent with guidelines of the Centers for
27 Disease Control and recommendations of the correctional medical authority on the

housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The department shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a department employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) All testing procedures, disclosure, and payment shall be pursuant to KRS 438.250.

Section 172. KRS 198B.020 is amended to read as follows:

(1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction comprised of twenty (20) members to include: the commissioner of the department, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for Public Health, Cabinet for Health and Family Services; the Attorney General or any assistant attorney general he may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the

1 Governor to represent the interests of low and moderate-income housing consumers
2 within the Commonwealth of Kentucky; one (1) citizen member at large; one (1)
3 practicing general contractor selected by the Governor from a list of three (3)
4 submitted by the Kentucky Association of General Contractors; one (1) practicing
5 code administrator selected by the Governor from a list of three (3) submitted by the
6 Codes Administrators Association of Kentucky; one (1) realtor selected by the
7 Governor from a list of three (3) submitted by the Kentucky Association of
8 Realtors; one (1) member selected by the Governor from a list of three (3)
9 submitted by the Kentucky State Building Trades Council; one (1) member selected
10 by the Governor from a list of three (3) submitted by the Kentucky Association of
11 Plumbing, Heating and Cooling Contractors; one (1) member selected by the
12 Governor from a list of three (3) submitted by the Mechanical Contractors
13 Association; one (1) electrical contractor member selected by the Governor from a
14 list of three (3) submitted by the National Electrical Contractors Association; and
15 one (1) retailer member selected by the Governor from a list of three (3) submitted
16 by the Kentucky Retail Federation.

17 (2) Except for the commissioner of the department, the commissioner of the
18 Department for Public Health, the executive director of the Kentucky Housing
19 Corporation, and the Attorney General or his designee, who shall serve on the board
20 during the term of their existing office and shall be voting members, board members
21 shall be appointed for four (4) year terms, except that initially four (4) shall be
22 appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms,
23 and six (6) shall be appointed for four (4) year terms. No board member shall be
24 appointed for more than one (1) successive term except as provided in subsection
25 (3) of this section. The Governor shall, within the limitations of this subsection, set
26 the length of term of each of the initial appointees to the board.

27 (3) Vacancies occurring on the board among those members appointed by the Governor

1 shall be filled by seeking nominations as in subsection (1) of this section from the
2 organization which originally nominated the member who is to be replaced. A
3 replacement for a board member shall be appointed immediately upon the
4 expiration of the departing board member's term of service. Should a board member
5 vacate his position on the board prior to the expiration of his term, his replacement
6 shall be appointed for the period of the unexpired term. Should the unexpired term
7 be less than two (2) years, the person selected to fill the unexpired term may
8 subsequently be appointed to one (1) successive four (4) year term.

9 (4) Members may be removed from the board by the Governor for unethical conduct or
10 for failure to attend three (3) or more successive meetings of the board without
11 reasonable cause.

12 (5) The board shall meet at least quarterly, and the first meeting shall occur no later
13 than August 31, 1978. Before assuming their duties, members of the board shall
14 take an oath as specified in Section 228 of the Constitution of Kentucky.

15 (6) The commissioner of the department shall serve as chairman of the board. The
16 board may elect from its members other officers as are required to conduct its
17 business, except that neither the commissioner of the Department for Public Health,
18 the executive director of the Kentucky Housing Corporation, nor the Attorney
19 General or his designee shall be elected to office on the board.

20 (7) The board may adopt such rules, regulations, and bylaws as are necessary to
21 conduct its internal business.

22 (8) No member of the board may vote on any matter which will result in his direct or
23 indirect financial gain.

24 (9) Those members of the board who are not salaried governmental employees shall be
25 compensated for their time when attending board meetings or attending to official
26 duties as directed by the board at the rate of fifty dollars (\$50) per day. All board
27 members shall be compensated for expenses incurred in the conduct of board

1 business.

2 Section 173. KRS 199.420 is amended to read as follows:

- 3 (1) The secretary may promulgate administrative regulations authorized by statute for
4 the proper administration of the functions of the cabinet, including qualification for
5 the receipt of federal funds and for cooperation with other state and federal
6 agencies.
- 7 (2) In the administration of KRS 199.420 to 199.670, the secretary shall cooperate to
8 the fullest extent possible with any agency of this state or any other state of the
9 United States.
- 10 (3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42,
11 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of
12 any officers and employees as are necessary in the performance of the secretary's
13 duties under KRS 199.420 to 199.670. All positions shall be filled by persons
14 selected and appointed on a nonpartisan merit basis, in accordance with merit
15 standards established by law. The secretary shall not employ or pay any person who
16 is an officer or committee member of any political party organization. The secretary
17 may delegate to any person so appointed that power and authority as the secretary
18 deems reasonable and proper for the effective administration of KRS 199.420 to
19 199.670.
- 20 (4) The secretary shall have the power and authority to elect coverage for the workers in
21 the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for
22 these workers under the workers' compensation law of this state. In the event the
23 coverage is elected the payment of contributions under KRS Chapter 341 and
24 premiums under the workers' compensation law shall be deemed a proper cost of
25 administration.
- 26 (5) The salaries and expenses of the secretary and the secretary's staff shall be
27 considered a proper cost of administration and charged to the funds allocated to the

1 Cabinet for **Health and Family Services**~~[Families and Children]~~.

2 Section 174. KRS 199.440 is amended to read as follows:

3 The secretary may authorize the destruction of any original reports and records that have
 4 been properly recorded or summarized in the permanent records of the cabinet or are no
 5 longer considered necessary to the proper administration of the cabinet. The destruction
 6 or disposition shall be made only by order of the secretary. Any money received from the
 7 disposition of the records shall be deposited and credited to the use of the Cabinet for
 8 **Health and Family Services**~~[Families and Children]~~.

9 Section 175. KRS 199.461 is amended to read as follows:

- 10 (1) As used in this section, "social service worker" means a social worker employed by
 11 the Cabinet for **Health and Family Services**~~[Families and Children]~~, Department
 12 for Community Based Services, to provide direct casework services in foster care,
 13 child protection, juvenile services, or adult protection.
- 14 (2) As used in this section, "active case" includes the total number of cases for which
 15 the family service worker has responsibility.
- 16 (3) The monthly statewide caseload average for social service workers in the area of
 17 foster care, child protection, juvenile services, or adult protection shall not exceed
 18 twenty-five (25) active cases.
- 19 (4) Nothing in this section shall prevent the department or a social service worker from
 20 handling emergencies to carry out statutory mandates. If the monthly statewide
 21 caseload average for social service workers exceeds twenty-five (25) active cases
 22 for ninety (90) consecutive days, the department shall report the fact to the
 23 Governor and to the Legislative Research Commission together with a description
 24 of the factors contributing thereto and shall make recommendations related thereto.
 25 The report shall include, by county and district, social service worker caseload
 26 averages; the number of established social service worker positions; and the number
 27 of vacant social service worker positions.

Section 176. KRS 199.462 is amended to read as follows:

(1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for *Health and Family Services*~~[Families and Children]~~ shall:

(a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation; or

(b) Request from the Justice Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice Cabinet shall furnish the information to the Cabinet for *Health and Family Services*~~[Families and Children]~~ and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

(3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for *Health and Family Services*~~[Families and Children]~~ may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.

(4) The Cabinet for *Health and Family Services*~~[Families and Children]~~ shall promulgate an administrative regulation to implement this section.

Section 177. KRS 199.467 is amended to read as follows:

Pursuant to the requirements of the Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96-272, the secretary for *health and family services*~~[families and children]~~ shall adopt by regulation specific goals for each fiscal year for the cabinet as to the maximum number of children, (either in absolute numbers or as a percentage of all children in foster care with respect to whom assistance is provided in that year) who, at any time during

1 such fiscal year, will remain in foster care after having been in such care for a period in
2 excess of twenty-four (24) months, together with a description of the steps to be taken by
3 the state to achieve such goals.

4 Section 178. KRS 199.473 is amended to read as follows:

5 (1) All persons other than a child-placing agency or institution, the department, or
6 persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child
7 shall make written application to the secretary for permission to place or receive a
8 child. Prior to the approval of an application to place or receive a child, together
9 with the fee required pursuant to subsection (6) of this section, the secretary shall
10 cause the investigation to be made by a Cabinet for Health and Family
11 Services~~[Families and Children]~~ social worker unless the applicant specifies in the
12 application that the investigation shall be done by an adoption worker of the home
13 and the background of the person or persons wishing to receive the child. The
14 portion of the investigation pertaining to the home and family background shall be
15 valid for one (1) year following the date of its completion by an adoption worker.
16 The purpose of the investigation shall be to determine the suitability of the
17 applicants to receive a child, taking into account at all times the best interest of the
18 child for whom application to receive has been made. The adoption worker making
19 the investigation shall make a finding in writing recommending either that the
20 application be granted or that the application be denied. In either case, reasons for
21 the adoption worker's recommendation shall be given in writing. The
22 recommendation of the adoption worker shall then be reviewed by the secretary.
23 Based on the report and recommendation of the adoption worker making the
24 investigation, the secretary shall grant or refuse permission for the applicant to place
25 or receive a child as early as practicable, but, in any case, the decision shall be made
26 within sixty (60) days after the receipt of the application. In reaching a decision, the
27 secretary shall be guided by the ability of the persons wishing to receive the child to

1 give the child a suitable home, and shall at all times consider the best interest of the
2 child from a financial, medical, psychological, and psychiatric standpoint. If the
3 application is refused, the secretary shall in general terms furnish in writing the
4 reasons for his refusal.

5 (2) Upon a finding by the Circuit Court that the child should be placed prior to the
6 secretary's ruling on the application, the Circuit Court may grant the applicant
7 temporary custody of the child pending the decision of the secretary. If the
8 application is denied, the temporary custody order shall be set aside and, upon
9 motion of the cabinet or of the child's parent or parents, the Circuit Court may order
10 the child returned to the biological parent or parents or the child's custody may be
11 awarded to the cabinet, another licensed child-placing agency, or other individuals
12 deemed appropriate by the court. This section shall not be deemed to permit the
13 completion of any adoption proceeding without the approval of the secretary and
14 compliance with KRS 615.030, if required.

15 (3) In any case where the cabinet refuses to approve the placement of a child for
16 adoption when requested by the parent or parents of the child, or refuses the request
17 of any person or persons that a child be placed with that person or those persons for
18 adoption, the decision of the secretary in so refusing shall be final unless within ten
19 (10) days after notice of refusal, the biological or proposed adopting parent or
20 parents shall appeal to the Circuit Court of the county in which the adoption is
21 proposed. No placement shall be disapproved on the basis of the religious, ethnic,
22 racial, or interfaith background of the adoptive applicant, if the placement is made
23 with the consent of the parent. The cabinet may refuse to approve the placement of a
24 child for adoption if the child's custodial parent is unwilling for the child to be
25 placed for adoption with the proposed adoptive family. The cabinet may approve or
26 deny the placement, in spite of the fact that the custodial parent or parents are
27 unwilling to be interviewed by the cabinet or other approving entity, or if, after

diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse of discretion.

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for health and family services~~[families and children]~~, or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants who are to receive the child unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

(5) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.

(6) The secretary of the Cabinet for Health and Family Services~~[Families and Children]~~ shall be paid a nonrefundable fee of one hundred fifty dollars (\$150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special-needs child as authorized in KRS 199.555.

1 (7) Nothing in this statute shall be construed to limit the authority of the cabinet or a
2 child-placing institution or agency to determine the proper disposition of a child
3 committed to it by the juvenile session of District Court or the Circuit Court, prior
4 to the filing of an application to place or receive.

5 Section 179. KRS 199.490 is amended to read as follows:

6 (1) The petition shall allege:

7 (a) The name, date, place of birth, place of residence, and mailing address of each
8 petitioner, and, if married, the date and place of their marriage;

9 (b) The name, date, place of birth, place of residence, and mailing address, if
10 known, of the child sought to be adopted;

11 (c) Relationship, if any, of the child to each petitioner;

12 (d) Full name by which the child shall be known after adoption;

13 (e) A full description of the property, if any, of the child so far as it is known to
14 the petitioner;

15 (f) The names of the parents of the child and the address of each living parent, if
16 known. The name of the biological father of a child born out of wedlock shall
17 not be given unless paternity is established in a legal action, or unless an
18 affidavit is filed stating that the affiant is the father of the child. If certified
19 copies of orders terminating parental rights are filed as provided in subsection
20 (2) of this section, the name of any parent whose rights have been terminated
21 shall not be given;

22 (g) The name and address of the child's guardian, if any, or of the cabinet,
23 institution, or agency having legal custody of the child;

24 (h) Any further facts necessary for the location of the person or persons whose
25 consent to the adoption is required, or whom KRS 199.480 requires to be
26 made a party to or notified of the proceeding; and

27 (i) If any fact required by this subsection to be alleged is unknown to the

1 petitioners, the lack of knowledge shall be alleged.

2 (2) There shall be filed with the petition certified copies of any orders terminating
3 parental rights. Any consent to adoption shall be filed prior to the entry of the
4 adoption judgment.

5 (3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written
6 approval of the secretary of the Cabinet for Health and Family Services~~[Families~~
7 ~~and Children]~~ or the secretary's designee shall be filed with the petition.

8 Section 180. KRS 199.555 is amended to read as follows:

9 (1) A "special-needs child" means:

10 (a) A child which the state has determined cannot or should not be returned to the
11 home of the child's parents; and

12 (b) A child which the state has first determined:

13 1. That there exists a specific factor or condition the existence of which
14 leads to the reasonable conclusion that the child cannot be placed with
15 adoptive parents without providing adoption assistance under this
16 section or medical assistance under Title XIX; and

17 2. That except where it would be against the best interests of the child
18 because of such factors as the existence of significant emotional ties
19 with prospective adoptive parents while in the care of these parents as a
20 foster child, a reasonable, but unsuccessful, effort has been made to
21 place the child with appropriate adoptive parents without providing
22 adoption assistance under this section or medical assistance under Title
23 XIX.

24 (2) "State-funded adoption assistance" means payment of monthly maintenance to
25 assist in meeting the special needs of a child which was placed by the Cabinet for
26 Health and Family Services~~[Families and Children]~~. The state-funded adoption
27 assistance shall also include payment of nonrecurring adoption expenses, and may

1 include reimbursement of extraordinary medical expenses.

2 (3) "Nonrecurring adoption expenses" means those expenses which are incurred in the
3 legal adoption of a special-needs child for which parents are ultimately responsible
4 which include reasonable and necessary adoption fees, court costs, attorney fees,
5 and other expenses which are directly related to the special-needs adoption and
6 which are not incurred in violation of state or federal law.

7 (4) "Extraordinary medical expenses" means those expenses which are related to the
8 child's special needs which existed prior to the adoption and are not reimbursed by
9 private insurance, Medicaid, or other third-party payors or government programs.

10 (5) If the secretary of the Cabinet for Health and Family Services~~[Families and~~
11 ~~Children]~~ or his designated representative finds that a child may benefit from being
12 adopted and that the payment of a subsidy to adoptive parents after the adoption
13 will increase the likelihood of adoption, funds may be paid to the adoptive parents
14 after completion of the adoption of the child if the following conditions exist:

15 (a) The child was considered a special-needs child prior to the adoption;
16 (b) The child is committed to the Cabinet for Health and Family
17 Services~~[Families and Children]~~ and the cabinet has authority to consent to
18 the child's adoption; and

19 (c) The adoptive parents can give suitable care to the child if a subsidy is paid.

20 (6) Agreements for the payments of funds under this section shall be made prior to the
21 adoption of the child. However, if the secretary for health and family
22 services~~[families and children]~~ or his designated representative finds that the
23 adoption is likely to disrupt, extraordinary medical expenses may be reimbursed
24 contingent upon availability of resources, if the following conditions exist:

25 (a) The child was placed for adoption by the Cabinet for Health and Family
26 Services~~[Families and Children]~~;

27 (b) The child was considered a special-needs child prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(6) which shall be deposited in a restricted account for the purpose of subsidizing special-needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for health and family services~~[families and children]~~ in accord with 42 U.S.C. sec. 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

(a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);

(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or

(c) The cabinet determines that the child is no longer receiving any support from

1 the parents.

2 (9) Parents who have been receiving adoption assistance payments under this section
3 shall keep the cabinet informed of circumstances which would, pursuant to
4 subsection (8) of this section, make them ineligible for assistance, or eligible for
5 assistance in a different amount.

6 (10) The cabinet shall establish criteria to be followed for the adoption of children under
7 provisions of this section and shall promulgate the criteria by administrative
8 regulations.

9 Section 181. KRS 199.557 is amended to read as follows:

10 (1) For the purpose of this section, unless the context requires otherwise, "Federal Title
11 IV-E adoption assistance" means the payment of monthly maintenance to assist in
12 meeting the special needs of the child and of nonrecurring adoption expenses which
13 include reasonable and necessary adoption fees, court costs, attorney fees, and other
14 expenses which are directly related to legal adoption of a special-needs child and
15 which are not incurred in violation of state or federal law.

16 (2) If the secretary of the Cabinet for Health and Family Services~~[Families and~~
17 ~~Children]~~ or his designated representative finds that payment of a subsidy to
18 adoptive parents after the adoption will increase the likelihood of the adoption,
19 funds may be paid to the adoptive parents after conclusion of the adoption if the
20 child meets the eligibility criteria established at 42 U.S.C. sec. 673.

21 (3) Agreements for Federal Title IV-E adoption assistance under this section shall be
22 made prior to the adoption of the child.

23 (4) Payment shall be out of funds appropriated to the cabinet and Federal Title IV-E
24 funds of the Social Security Act as amended (42 U.S.C. secs. 673 et seq.). All
25 payments shall be in accordance with administrative regulations promulgated by the
26 Cabinet for Health and Family Services~~[Families and Children]~~. Payments shall
27 not exceed the amount which would be paid for foster care for the child.

1 Nonrecurring adoption expenses shall only be reimbursed up to the limit established
2 by the secretary of the Cabinet for Health and Family Services~~[Families and~~
3 ~~Children]~~ or his designated representative in accordance with 42 U.S.C. secs. 673 et
4 seq.

5 Section 182. KRS 199.570 is amended to read as follows:

6 (1) (a) The files and records of the court during adoption proceedings shall not be
7 open to inspection by persons other than parties to the proceedings, their
8 attorneys, and representatives of the cabinet except under order of the court
9 expressly permitting inspection.

10 (b) Upon the entry of the final order in the case, the clerk shall place all papers
11 and records in the case in a suitable envelope which shall be sealed and shall
12 not be open for inspection by any person except on written order of the court,
13 except that upon the written consent of the biological parents and upon written
14 order of the Circuit Court all papers and records including all files and records
15 of the Circuit Court during proceedings for termination of parental rights
16 provided in KRS 625.108 shall be open for inspection to any adult adopted
17 person who applies in person or in writing to the Circuit Court as provided in
18 KRS 199.572. Health information received pursuant to KRS 199.525 shall be
19 added to the adoption case file. The clerk of the Circuit Court shall set up a
20 separate docket and order book for adoption cases and these files and records
21 shall be kept locked.

22 (c) No person having charge of any adoption records shall disclose the names of
23 any parties appearing in such records or furnish any copy of any such records
24 to any person or other entity that does not meet the requirements of KRS
25 199.572, except upon order of the court which entered the judgment of
26 adoption.

27 (2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly

1 report to the Cabinet for Health and Family Services of Kentucky full information
2 as called for on forms furnished by the Cabinet for Health and Family Services,
3 necessary to make a new birth certificate conforming to the standard birth certificate
4 form. Upon receipt of this information, the Cabinet for Health and Family Services
5 shall cause to be made a new record of the birth and it shall be filed with the
6 original certificate, and the original certificate shall be stamped with the words,
7 "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the
8 court."

- 9 (3) The new certificate shall set forth the new name, if any, of the adopted child, the
10 names of the adoptive parents, and such other information deemed necessary in
11 accordance with rules and regulations promulgated by the Cabinet for Health and
12 Family Services in issuing of birth certificates. If the adopted child is under
13 eighteen (18) years of age, the birth certificate shall not contain any information
14 revealing the child is adopted and shall show the adoptive parent or parents as the
15 biological parent or parents of the child. If requested by the adoptive parents, the
16 new birth certificate when issued shall contain the location of birth, hospital, and
17 name of doctor or midwife. This information should be given only by an order of
18 the court in which the child was adopted. The new birth certificate shall recite the
19 residence of the adoptive parents as the birthplace of the child and this shall be
20 deemed for all legal purposes to be the birthplace of the child. If no birth certificate
21 is on file for a child born in Kentucky, the Cabinet for Health and Family Services
22 shall prepare a certificate of birth in accordance with the information furnished the
23 cabinet by the clerk of the Circuit Court which issued the adoption order. The
24 Cabinet for Health and Family Services shall furnish to the clerks of the Circuit
25 Courts the necessary forms to carry out the provisions of this section. If the child
26 was born in another state, the order of adoption shall be forwarded to the division of
27 vital statistics of the state concerned to be changed in accordance with the laws of

1 such state. If the child was born in a foreign country, the report of adoption shall be
2 returned to the attorney or agency handling the adoption for submission to the
3 appropriate federal agency.

4 (4) Thereafter when any copy of the certificate of birth of any child is issued it shall be
5 a copy of the new certificate of birth, except when an order of the court granting the
6 judgment of adoption shall request the issuance of the copy of the original
7 certificate of the child's birth.

8 (5) If any judgment of adoption is reversed, modified, or vacated in any particular, the
9 clerk of the Circuit Court shall notify the Cabinet for Health and Family Services
10 of the reversal or modification and the effect of same, and the cabinet shall make
11 any necessary changes in its records.

12 Section 183. KRS 199.572 is amended to read as follows:

13 (1) At the time the biological parents give up the child for adoption, they shall be asked
14 by the cabinet whether they consent to the inspection of the adoption records, to
15 personal contact by the child, or to both when he becomes an adult. If consent is
16 then given, it can later be revoked. If consent is withheld at that time, the biological
17 parents may give consent at any later time. The initial written statement of consent
18 or refusal of consent to inspection of records and personal contact shall be filed with
19 the Circuit Court not later than the date of finalization of the adoption proceedings.
20 When a written consent is on file, the records shall be available to the adult adopted
21 person, upon his request therefor in writing.

22 (2) When any adult adopted person applies in person or in writing to the Circuit Court
23 for authorization to inspect all papers and records pertaining to the adoption
24 proceedings of that adult adopted person as provided in KRS 199.570(1), and the
25 biological parents have previously refused consent to inspection of records and to
26 personal contact, the court may, if satisfied as to the identity of the adult adopted
27 person, authorize the adult adopted person to inspect the papers and records if

1 written consent is obtained from the biological parents identified on the adult
2 adopted person's original birth certificate.

3 (3) The Circuit Court shall, within seven (7) working days of the receipt of the request,
4 direct the secretary of the cabinet to notify each biological parent identified on the
5 adult adopted person's original birth certificate that the person has applied to the
6 court for information identifying the biological parent. Within six (6) months of
7 receiving the notice of the request of the adult adopted person, the secretary of the
8 cabinet shall make complete and reasonable efforts to notify each biological parent
9 identified on the adult adopted person's original birth certificate. The secretary may
10 charge a reasonable fee not to exceed two hundred fifty dollars (\$250) to the adult
11 adopted person for making this search. Every child-caring facility and child-placing
12 agency in the Commonwealth shall cooperate with the secretary in his efforts to
13 notify these biological parents.

14 (4) If the cabinet utilizes the services of another person or entity to perform a search
15 under subsection (3) of this section, the cabinet shall enter into a formal contract
16 with that person or entity. A person or entity contracted to perform a search shall be
17 licensed under the provisions of KRS Chapter 329A.

18 (5) The notification of the biological parents shall not be by mail and shall be by
19 personal and confidential contact by the cabinet. The notification shall be done
20 without disclosing the identity of the adult adopted person. The personal and
21 confidential contact with the biological parents shall be evidenced by filing with the
22 Circuit Court an affidavit of notification executed by the person who notified each
23 parent and certifying each parent was given the following information:

- 24 (a) The nature of the information requested by the adult adopted person;
- 25 (b) The date of the request of the adult adopted person;
- 26 (c) The right of the biological parent to file, within sixty (60) days of receipt of
27 the notice, an affidavit with the Circuit Court stating that the adult adopted

1 person shall be authorized to inspect all papers and records pertaining to his
2 adoption proceedings;

3 (d) The right of the biological parent to file at any time an affidavit authorizing
4 the adult adopted person to inspect all papers and records pertaining to his
5 adoption proceedings; and

6 (e) The right of a biological parent to file an affidavit with the Circuit Court
7 stating that all papers and records pertaining to the adoption proceedings of
8 the adult adopted person shall not be open for inspection by the adult adopted
9 person.

10 (6) The adult adopted person shall not be authorized to inspect the papers and records
11 pertaining to his or her adoption proceedings unless those biological parents
12 identified on the original birth certificate agree in writing to that inspection.

13 (7) If after diligent and reasonable effort, the secretary of the cabinet certifies that both
14 biological parents identified in the original birth certificate are deceased or the
15 secretary is unable to locate said parents, then a judge of the Circuit Court, upon
16 motion of the adult adopted person, may order that all papers and records of the
17 Cabinet for **Health and Family Services**~~[Families and Children]~~ and those of the
18 Circuit Court pertaining to the adoption shall be open for inspection to the adult
19 adopted person. In any case, the court shall order that only identifying information
20 about the biological parents be shared with the adult adopted person.

21 Section 184. KRS 199.575 is amended to read as follows:

22 In situations where a preadoptive brother or sister relationship existed, and one (1) or
23 more of these siblings was then adopted, the following procedures shall be followed on
24 an inquiry by one (1) or more of the siblings to the Cabinet for **Health and Family**
25 **Services**~~[Families and Children]~~ seeking information about his brother or sister:

26 (1) In all cases, an adopted person eighteen (18) years of age or older or a pre-adoptive
27 sibling eighteen (18) years of age or older of an adopted person may file

1 information concerning himself, his present location, and his known antecedents
2 with the Cabinet for *Health and Family Services*~~[Families and Children]~~, stating
3 his interest in being reunited with his pre-adoptive siblings and authorizing the
4 cabinet to release such information to his pre-adoptive siblings who may make
5 similar inquiry.

- 6 (2) In any case in which a person eighteen (18) years of age or older requests
7 information about or expresses a desire in being reunited with a pre-adoptive
8 sibling, the cabinet shall first determine whether such sibling has made similar
9 inquiry pursuant to subsection (1) of this section. If the sibling has previously
10 authorized release of information about himself, the cabinet shall release the
11 information to the sibling making inquiry.

12 Section 185. KRS 199.590 is amended to read as follows:

- 13 (1) A person, corporation, or association shall not advertise in any manner that it will
14 receive children for the purpose of adoption. A newspaper published in the
15 Commonwealth of Kentucky or any other publication which is prepared, sold, or
16 distributed in the Commonwealth of Kentucky shall not contain an advertisement
17 which solicits children for adoption or solicits the custody of children.
- 18 (2) A person, agency, institution, or intermediary shall not sell or purchase or procure
19 for sale or purchase any child for the purpose of adoption or any other purpose,
20 including termination of parental rights. This section shall not prohibit a child-
21 placing agency from charging a fee for adoption services. This section shall not be
22 construed to prohibit in vitro fertilization. For purposes of this section, "in vitro
23 fertilization" means the process by which an egg is removed from a woman, and
24 fertilized in a receptacle by the sperm of the husband of the woman in whose womb
25 the fertilized egg will thereafter be implanted.
- 26 (3) No person, association, or organization, other than the cabinet or a child-placing
27 institution or agency shall place a child or act as intermediary in the placement of a

child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for Health and Family Services~~[Families and Children]~~ in carrying out its public assistance under Title IV-A of the Federal Social Security Act program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.

(4) A person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. A person, agency, institution, or intermediary shall not receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.

(6) (a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved.

1 Section 186. KRS 199.595 is amended to read as follows:

- 2 (1) The General Assembly finds that:
- 3 (a) Finding adoptive families for children, for whom state assistance is desirable
- 4 pursuant to KRS 199.555, and assuring the protection of the interests of the
- 5 children affected during the entire assistance period, require special measures
- 6 when the adoptive parents move to other states or are residents of another
- 7 state; and
- 8 (b) Provision of medical and other necessary services for children, with state
- 9 assistance, encounters special difficulties when the provision of services takes
- 10 place in other states.
- 11 (2) The purposes of KRS 199.5951 to 199.5955 are to:
- 12 (a) Authorize the Cabinet for Health and Family Services~~[Families and~~
- 13 ~~Children]~~ to enter into interstate agreements with agencies of other states for
- 14 protection of children on behalf of whom adoption assistance is being
- 15 provided by the Cabinet for Health and Family Services~~[Families and~~
- 16 ~~Children]~~; and
- 17 (b) Provide procedures for interstate children's adoption assistance payments,
- 18 including medical payments.

19 Section 187. KRS 199.5951 is amended to read as follows:

- 20 (1) The Cabinet for Health and Family Services~~[Families and Children]~~ is authorized
- 21 to develop, participate in the development of, negotiate and enter into one (1) or
- 22 more interstate compacts on behalf of this state with other states to implement one
- 23 (1) or more of the purposes set forth in KRS 199.595 to 199.5955. When so entered
- 24 into, and for so long as it shall remain in force, such a compact shall have the force
- 25 and effect of law.
- 26 (2) For the purposes of KRS 199.595 to 199.5955, the term "state" shall mean a state of
- 27 the United States, the District of Columbia, the Commonwealth of Puerto Rico, the

1 Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a
2 territory or possession of or administered by the United States.

3 (3) For the purposes of KRS 199.595 to 199.5955, the term "adoption assistance state"
4 means the state that is signatory to an adoption assistance agreement in a particular
5 case.

6 (4) For the purposes of KRS 199.595 to 199.5955, the term "residence state" means the
7 state of which the child is a resident by virtue of the residence of the adoptive
8 parents.

9 Section 188. KRS 199.5954 is amended to read as follows:

10 (1) A child with special needs residing in this state, who is the subject of an adoption
11 assistance agreement with another state, shall be entitled to receive medical
12 assistance from this state upon the filing in the Department for Community Based
13 Services, Cabinet for Health and Family Services~~[Families and Children]~~, a
14 certified copy of the adoption assistance agreement obtained from the adoption
15 assistance state. In accordance with regulations of the Department for Medicaid
16 Services, Cabinet for Health and Family Services, the adoptive parents shall be
17 required at least annually to show that the agreement is still in force or has been
18 renewed.

19 (2) The Department for Medicaid Services, Cabinet for Health and Family Services
20 shall consider recipients of medical assistance pursuant to this section as any other
21 recipient of medical assistance under the laws of this state and shall process and
22 make payment on claims on account of the recipient in the same manner and
23 pursuant to the same conditions and procedures as for other recipients of medical
24 assistance.

25 (3) The Department for Medicaid Services, Cabinet for Health and Family Services
26 shall provide coverage and benefits for a child who is in another state and who is
27 covered by an adoption assistance agreement made by the Department for

Community Based Services, Cabinet for **Health and Family Services**~~[Families and Children]~~, for the coverage or benefits, if any, not provided by the residence state.

To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, the regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars (\$10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 189. KRS 199.5955 is amended to read as follows:

1 Consistent with federal law, the Cabinet for *Health and Family Services*~~[Families and~~
 2 ~~Children]~~, in connection with the administration of KRS 199.595 to 199.5955 and any
 3 compact pursuant hereto shall include in any state plan made pursuant to the Adoption
 4 Assistance and Child Welfare Act of 1980 (Pub. L. 96-272), Titles IV (e) and XIX of the
 5 Social Security Act, and any other applicable federal laws, the provision of adoption
 6 assistance and medical assistance for which the federal government pays some or all of
 7 the cost. The Cabinet for *Health and Family Services*~~[Families and Children]~~ shall apply
 8 for and administer all relevant federal aid in accordance with law.

9 Section 190. KRS 199.641 is amended to read as follows:

10 (1) As used in this section, unless the context otherwise requires:

11 (a) "Allowable costs report" means a report from each child-caring facility that
 12 contracts with the department for services and includes all allowable costs as
 13 defined by the Federal Office of Management and Budget circular A-122,
 14 "cost principles for nonprofit organizations," and other information the
 15 department may require, utilizing cost data from each child-caring facility's
 16 most recent yearly audited financial statement;

17 (b) "Child-caring facility" means any institution or group home other than a state
 18 facility, or one certified by an appropriate agency as operated primarily for
 19 educational or medical purposes providing residential care on a twenty-four
 20 (24) hour basis to children, not related by blood, adoption, or marriage to the
 21 person maintaining the facility;

22 (c) "Department" means the Department for Community Based Services of the
 23 Cabinet for *Health and Family Services*~~[Families and Children]~~;

24 (d) "Model program cost analysis" means a report based on a time study, the
 25 allowable costs report, and other information required by the department from
 26 each child-caring facility that contracts with the department for services that
 27 determines a statewide median cost for each licensed program category of

1 service provided by child-caring facilities; and

2 (e) "Time study" means the process of reporting the work performed by
3 employees of child-caring facilities in specified time periods.

4 (2) Subject to the limitations set forth in subsection (4) of this section, when the
5 department chooses to contract with a nonprofit child-caring facility for services to
6 a child committed to the department, the department shall make payments to that
7 facility based on the rate setting methodology developed from the model program
8 cost analysis. The department shall also assure that the methodology:

9 (a) Provides payment incentives for moving children as quickly as possible to a
10 permanent, continuous, stable environment;

11 (b) Provides children who require out-of-home care or alternative treatment with
12 placements that are as close as possible to their home geographic area; and

13 (c) Provides appropriate placement and treatment services that effectively and
14 efficiently meet the needs of the child and the child's family as close as
15 possible to the child's home geographic area.

16 (3) The department shall use the model program cost analysis as a basis for cost
17 estimates for the development of the department's biennial budget request.

18 (4) The secretary shall, to the extent funds are appropriated, establish and implement
19 the rate setting methodology and rate of payment by promulgation of administrative
20 regulations in accordance with KRS Chapter 13A that are consistent with the level
21 and quality of service provided by child-caring facilities. The administrative
22 regulations shall also include the forms and formats for the model program cost
23 analysis.

24 Section 191. KRS 199.645 is amended to read as follows:

25 The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall issue and
26 enforce administrative regulations specifically addressing the unique situation of child-
27 caring facilities and child-placing agencies which provide nonsecure care for children

1 during the preadjudication phase of proceedings under KRS Chapter 630. These facilities
 2 and agencies shall include those operated privately and those operated by units of local
 3 government. These administrative regulations shall include standards relating to the
 4 following:

- 5 (1) Administration;
- 6 (2) Personnel;
- 7 (3) Training and staff development;
- 8 (4) Recordkeeping;
- 9 (5) Physical plant;
- 10 (6) Security and control;
- 11 (7) Safety and emergency procedures;
- 12 (8) Sanitation and hygiene;
- 13 (9) Medical services;
- 14 (10) Food services;
- 15 (11) Intake and classification;
- 16 (12) Programs and services;
- 17 (13) Resident rights;
- 18 (14) Rules and discipline;
- 19 (15) Admission procedures;
- 20 (16) Communication, including mail, visitation and telephone;
- 21 (17) Release preparation and transfer programs; and
- 22 (18) Volunteer involvement.

23 Section 192. KRS 199.892 is amended to read as follows:

24 In enacting legislation relating to the regulation of day-care centers, it is the intention of
 25 the General Assembly to enable the Cabinet for Health and Family Services Families
 26 ~~and Children~~ to qualify to receive federal funds under provisions of the Federal Social
 27 Security Act and to provide for effective regulation of day-care centers.

1 Section 193. KRS 199.894 is amended to read as follows:

2 As used in KRS 199.892 to 199.896, unless the context otherwise requires:

3 (1) "Cabinet" means the Cabinet for Health and Family Services~~[Families and~~
4 ~~Children]~~;

5 (2) "Secretary" means secretary for health and family services~~[families and children]~~;

6 (3) "Child-care center" means any child-care center which provides full or part-time
7 care, day or night, to at least seven (7) children who are not the children,
8 grandchildren, nieces, nephews, or children in legal custody of the operator. "Child-
9 care center" shall not include any child-care facility operated by a religious
10 organization while religious services are being conducted, or a youth development
11 agency. For the purposes of this section, "youth development agency" means a
12 program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates
13 continuously throughout the year as an outside-school-hours center for youth who
14 are six (6) years of age or older, and for which there are no fee or scheduled-care
15 arrangements with the parent or guardian of the youth served;

16 (4) "Department" means the Department for Community Based Services; and

17 (5) "Family child-care home" means a private home that provides full or part-time care
18 day or night for six (6) or fewer children who are not the children, siblings,
19 stepchildren, grandchildren, nieces, nephews, or children in legal custody of the
20 provider.

21 Section 194. KRS 199.8941 is amended to read as follows:

22 (1) The Early Childhood Development Authority shall, by administrative regulation
23 promulgated in accordance with KRS Chapter 13A, establish a program of
24 monetary incentives including but not limited to an increased child-care subsidy and
25 a one-time merit achievement award for child-care centers and certified family
26 child-care homes that are tied to a quality rating system for child care as established
27 under KRS 199.8943.

1 (2) The monetary incentive program shall be reviewed annually by the authority for the
2 purpose of determining future opportunities to provide incentives.

3 (3) Participation in the program of monetary incentives and in the quality rating system
4 by child-care centers and certified family child-care homes is voluntary.

5 (4) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall
6 encourage the professional development of persons who are employed or provide
7 training in a child-care or early childhood setting by facilitating their participation in
8 the scholarship program for obtaining a child development associate credential,
9 postsecondary certificate, diploma, degree, or specialty credential as established
10 under KRS 164.518.

11 Section 195. KRS 199.8943 is amended to read as follows:

12 (1) The Early Childhood Development Authority shall, in consultation with child-care
13 providers, the Cabinet for **Health and Family Services**~~[Families and Children]~~, the
14 Cabinet for Health **and Family** Services, and others, including but not limited to
15 child-care resource and referral agencies and family resource centers, develop a
16 voluntary quality-based graduated child-care rating system for licensed child-care
17 and certified family child-care homes based on, but not limited to:

- 18 (a) Child to caregiver ratios;
- 19 (b) Child-care staff training;
- 20 (c) Program curriculum; and
- 21 (d) Program regulatory compliance.

22 (2) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall
23 promulgate administrative regulations in accordance with KRS Chapter 13A to
24 implement:

- 25 (a) The voluntary quality-based graduated child-care rating system for child-care
26 and certified family child-care homes developed under subsection (1) of this
27 section;

- (b) Agency time frames of reviews for rating;
- (c) An appellate process under KRS Chapter 13B; and
- (d) The ability of providers to request reevaluation for rating.

Section 196. KRS 199.899 is amended to read as follows:

- (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall conduct a market-rate survey at least biennially to set the minimum rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

- (a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;
- (b) Determine market rates; and
- (c) Make public its findings.

- (2) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that area development district.

- (3) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall evaluate, at least annually, the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care.

Section 197. KRS 199.8992 is amended to read as follows:

- (1) To the extent possible with available funds, the Cabinet for **Health and Family Services**~~[Families and Children]~~ shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit,

1 community-based agencies. Each resource and referral agency shall:

- 2 (a) Maintain a uniform database in a format developed by the cabinet of all child-
3 care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS
4 199.8982 in the service area, including information on the availability of care;
- 5 (b) Provide consumer education to families seeking child-care services;
- 6 (c) Provide timely referrals of available child-care providers to families seeking
7 child-care services;
- 8 (d) Recruit child-care providers in areas where there is an identified need as
9 identified pursuant to paragraph (f) of this subsection;
- 10 (e) Coordinate, with the cabinet, training for child-care providers and provide
11 technical assistance to employers, current and potential child-care providers,
12 and the community at large;
- 13 (f) Collect and analyze data on the supply of, and demand for, child-care in the
14 community;
- 15 (g) Stimulate employer involvement in improving the affordability, availability,
16 safety, and quality of child care for their employees and for the community;
- 17 (h) Provide written educational materials to parents and child-care providers;
- 18 (i) Not operate a child-care center on behalf of an employer or on their own
19 unless no existing provider is willing or able to provide the service at the
20 current market rate. This paragraph shall not apply to child care provided by a
21 resource and referral agency to an employer prior to July 14, 1992; and
- 22 (j) Form community early childhood councils in cooperation with family
23 resource centers and other local organizations or agencies.

24 (2) To the extent possible with available funds, the cabinet shall award contracts in
25 accordance with KRS Chapter 45A to:

- 26 (a) Coordinate existing resource and referral services;
- 27 (b) Expand resource and referral services to unserved areas; and

1 (c) Improve services provided by the designated resources and referral agency.

2 (3) When awarding the contracts provided for in subsection (2) of this section, priority
 3 shall be given to agencies which demonstrate the ability to provide local matching
 4 funds in an amount equal to twenty-five percent (25%) of the total amount of the
 5 contract. Contracts shall be awarded for a minimum period of up to one (1) year.
 6 Start-up contracts may be awarded in up to four (4) area development districts per
 7 year until each area development district has one (1) designated child-care resource
 8 and referral agency. The awarding of a contract pursuant to this section shall not
 9 create a continuing obligation for the cabinet to fund a resource and referral agency.
 10 The cabinet shall require applicants to submit a plan for providing the services
 11 required by subsection (1) of this section.

12 Section 198. KRS 199.8994 is amended to read as follows:

13 (1) All child-day-care funds administered by the cabinet, including Title XX of the
 14 Social Security Act, shall be administered by the Cabinet for Health and Family
 15 Services~~[Families and Children]~~ to the extent allowable under federal law or
 16 regulation and in a manner which is in the best interest of the clients to be served.
 17 To the extent permitted by federal law or regulations, requirements relating to
 18 application, eligibility, provider agreements, and payment for child-care services
 19 shall be the same regardless of the source of public funding.

20 (2) The cabinet shall, to the extent allowable under federal law or regulation and in a
 21 manner which is in the best interest of the clients to be served, develop a system
 22 which provides a single intake point in each county through which parents seeking
 23 public subsidies for child-care services can make application.

24 (3) The cabinet shall, subject to the extent funds are available, cooperate with the
 25 Cabinet for Health and Family Services to fund and establish dedicated child-care
 26 licensing surveyor positions within the Division of Licensed Child Care to conduct
 27 all the cabinet's child-care licensing activities. The cabinet shall have the authority

1 to request the transfer of funds to establish these positions. Where possible,
 2 dedicated child-care surveyors shall have expertise or experience in child-care or
 3 early childhood education.

4 (4) The targeted ratio of dedicated child-care licensing surveyor positions shall be one
 5 (1) surveyor for each fifty (50) child-care facilities in order to allow for the
 6 provision of an expedient, constructive, and thorough licensing visit.

7 (5) The cabinet shall, in cooperation with the Division of Licensed Child Care, Cabinet
 8 for Health and Family Services, provide appropriate specialized training for child-
 9 care surveyors.

10 (6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated
 11 child-care providers that receive a public subsidy for child care, and
 12 promulgate administrative regulations in accordance with KRS Chapter 13A
 13 that establish minimum health and safety standards, limitations on the
 14 maximum number of children in care, training requirements for a child-care
 15 provider that receives a child-care subsidy administered by the cabinet, and
 16 criteria for the denial of subsidies if criminal records indicate convictions that
 17 impact the safety and security of children in care.

18 (b) If the cabinet has probable cause to believe that there is an immediate threat to
 19 the public health, safety, or welfare, it may take emergency action to deny a
 20 public subsidy for child-care services under KRS 13B.125.

21 Section 199. KRS 199.8996 is amended to read as follows:

22 (1) The Cabinet for Health and Family Services~~[Families and Children]~~ shall prepare
 23 the following reports to the General Assembly on child-care programs, and shall
 24 make them available to the public:

25 (a) A quarterly report detailing the number of children and amounts of child-care
 26 subsidies provided in each area development district;

27 (b) A quarterly report on administrative expenses incurred in the operation of

- 1 child-care subsidy programs;
- 2 (c) A quarterly report on disbursements of federal child-care block grant funds for
- 3 training, resource and referral, and similar activities; and
- 4 (d) Beginning July 15, 1993, an annual report summarizing the average child-care
- 5 subsidy activities per month in all Kentucky counties.
- 6 (2) The cabinet shall file an annual report on its evaluation of the adequacy of the child-
- 7 care subsidy to enable low-income families in need of child-care services to obtain
- 8 child care with the Early Childhood Development Authority and the Legislative
- 9 Research Commission.
- 10 (3) The cabinet shall file an annual report on the number of dedicated child-care
- 11 licensing surveyor positions and the ratio of surveyors to child-care facilities with
- 12 the Early Childhood Development Authority and the Legislative Research
- 13 Commission.
- 14 Section 200. KRS 199.900 is amended to read as follows:
- 15 (1) The secretary for health and family services~~[families and children]~~ in coordination
- 16 with the Personnel Cabinet is authorized to establish formal training programs
- 17 within the Cabinet for Health and Family Services~~[Families and Children]~~ or
- 18 within any of the divisions or sections of the cabinet for the training of necessary
- 19 personnel for the administration of the programs of the cabinet. When courses of
- 20 study, applicable to the program processes of the cabinet, are not available through
- 21 cabinet instruction, arrangements may be made for the training of employees in any
- 22 public or private school or institution having available facilities for that purpose,
- 23 and such training shall be deemed to be a part of the cabinet training program.
- 24 Training of employees in public or private schools or institutions for this purpose
- 25 shall be deemed a part of research assignments to be completed during the period of
- 26 study, and these assignments are to relate directly to the work assignment of the
- 27 employee. After consulting with the Personnel Cabinet, position classifications in

the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving training.

- (2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 201. KRS 200.010 is amended to read as follows:

As used in KRS Chapter 200, unless the context requires otherwise, "cabinet" means Cabinet for *Health and Family Services*~~[Families and Children]~~.

Section 202. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

- (1) This council shall be composed of the following:

- (a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Community Based Services, the commissioner of the Department for Public Health, the commissioner of the Department for Medicaid Services, the commissioner of the Department of Juvenile Justice, the director of the Office of Family Resource and Youth Services Centers, and the general manager of the *Division*~~[Office]~~ of Juvenile Services of the Administrative Offices of the Courts, or their designees; and

1 (b) The Governor shall appoint one (1) parent of a child with an emotional
2 disability, who is a consumer of state-funded services for children with an
3 emotional disability to serve as a member of the council, and one (1) parent
4 who meets the same criteria to serve as the parent member's alternate to serve
5 in the absence of the parent member. For each appointment to be made, the
6 State Family Advisory Council shall submit to the Governor a list of two (2)
7 names of parents who are qualified for appointment from which list the
8 Governor shall make the appointment. Appointees shall serve a term of four
9 (4) years. If the child of the parent member or alternate parent member ceases
10 to be a consumer of state-funded services for children with an emotional
11 disability during the term of appointment, the member shall be eligible to
12 serve out the remainder of the term of appointment. The alternate parent
13 member may attend and participate in all council meetings but shall vote only
14 in the absence of the parent member. The parent member and alternate parent
15 member shall receive no compensation in addition to that which they may
16 already receive as service providers or state employees, but the parent member
17 and alternate parent member shall be reimbursed for expenses incurred
18 through the performance of their duties as council members.

19 (2) The State Interagency Council for Services to Children with an Emotional
20 Disability shall:

21 (a) Consider issues and make recommendations annually to the Governor and the
22 Legislative Research Commission regarding the provision of services for
23 children with an emotional disability;

24 (b) Direct each regional interagency council to coordinate services to children
25 with an emotional disability and identify factors contributing to a lack of
26 coordination;

27 (c) Develop a form to be signed by the parent or other legal guardian of a child

1 referred for services to any interagency council for children with an emotional
2 disability. The form shall enable the agencies involved with the child to share
3 information about the child as necessary to identify and provide services for
4 the child;

5 (d) Review service and treatment plans for children for whom reviews are
6 requested, and provide any advice and assistance that the state council
7 determines to be necessary to meet the needs of children with an emotional
8 disability referred by regional councils;

9 (e) Assess the effectiveness of regional councils in meeting the service needs of
10 children with an emotional disability;

11 (f) Establish a uniform grievance procedure for the state, to be implemented by
12 each regional interagency council. Appeals may be initiated by the child,
13 parent, guardian, person exercising custodial control or supervision, or other
14 authorized representative about matters relating to the interagency service plan
15 for the child or the denial of services by the regional interagency council.
16 Upon appeal, an administrative hearing shall be conducted in accordance with
17 KRS Chapter 13B;

18 (g) Meet at least monthly and maintain records of meetings, except that records
19 that identify individual children shall only be disclosed as provided by law;

20 (h) Adopt interagency agreements as necessary for coordinating services to
21 children with an emotional disability by the agencies represented in the state
22 council;

23 (i) Develop services to meet the needs of children with an emotional disability;
24 and

25 (j) Promote services to prevent the emotional disability of a child.

26 (3) The State Interagency Council for Services to Children with an Emotional
27 Disability may promulgate administrative regulations necessary to comply with the

1 requirements of KRS 200.501 to 200.509.

2 Section 203. KRS 200.507 is amended to read as follows:

3 The secretary for **health and family services**~~[families and children]~~, the designee of the
 4 State Department of Education, and the executive director of the Administrative Offices
 5 of the Courts shall ensure that the State Interagency Council for Services to Children with
 6 an Emotional Disability is formed by August 1, 1990. No member of the State
 7 Interagency Council shall receive compensation other than that received as a state
 8 employee.

9 Section 204. KRS 200.509 is amended to read as follows:

10 (1) There are hereby created regional interagency councils for services to children with
 11 an emotional disability. These councils shall be formed in each area development
 12 district within the Commonwealth of Kentucky, except that those area development
 13 districts that contain a county with a population greater than one hundred thousand
 14 (100,000) may form up to three (3) such councils. The regional interagency councils
 15 for services to children with an emotional disability shall be chaired by the service
 16 region administrator of the Department for Community Based Services or a
 17 program specialist with expertise in this service area as the district supervisor's
 18 designee. Each council shall be composed of the following members:

- 19 (a) The children's services coordinator from each regional community mental
 20 health center or their designee in the case of a multicouncil district;
- 21 (b) One (1) court, designated worker chosen by the Chief Regional District Judge
 22 within the region;
- 23 (c) One (1) specialist in special education chosen by the school district
 24 superintendents in the area served by the regional council;
- 25 (d) One (1) parent of a child with an emotional disability, who is a consumer of
 26 state-funded services for children with an emotional disability, and one (1)
 27 parent who meets the same criteria to serve as the parent member's alternate,

1 who may attend and participate in all council meetings, but shall vote only in
 2 the absence of the parent member. For each appointment to be made, the
 3 regional interagency council for which the appointment is to be made shall
 4 submit to the Governor a list of two (2) names of parents who are qualified for
 5 appointment from which list the Governor shall make the appointment.
 6 Appointees shall serve a term of four (4) years. If the child of the parent
 7 member or alternate parent member ceases to be a consumer of state-funded
 8 services for children with an emotional disability during the term of
 9 appointment, the member shall be eligible to serve out the remainder of the
 10 term of appointment;

11 (e) Any other local public or private agency that provides services to children
 12 with an emotional disability which the regional interagency council may invite
 13 to have a representative become a permanent or temporary member of the
 14 council; and

15 (f) Representatives from the Department of Juvenile Justice and local health
 16 departments.

17 (2) No member of a regional interagency council for services to children with an
 18 emotional disability shall be given compensation in addition to that which they
 19 already receive as service providers or state employees, except that the parent
 20 members and alternate parent members of regional interagency councils shall be
 21 reimbursed for all expenses incurred through the performance of their duties as
 22 council members.

23 (3) Each regional interagency council for services to children with an emotional
 24 disability shall perform the following functions:

25 (a) Review case histories of children referred to it by its members or any other
 26 entity within its geographical area to coordinate service provision;

27 (b) Coordinate the development of interagency service plans for children with an

- 1 emotional disability in the least restrictive alternative mode of treatment;
- 2 (c) Identify the time frames necessary and the parties responsible for the timely
- 3 development of the interagency service plans for children with an emotional
- 4 disability;
- 5 (d) Verify that services identified in interagency service plans are developed,
- 6 accessed, and delivered in a coordinated and timely manner;
- 7 (e) Initiate and adopt interagency agreements as necessary for providing services
- 8 to children with an emotional disability by the agencies represented in the
- 9 regional council;
- 10 (f) Advise the state interagency council regarding service delivery to children
- 11 with an emotional disability within the region;
- 12 (g) Refer those children for whom the regional councils cannot provide adequate
- 13 services to the state interagency council;
- 14 (h) Implement the uniform grievance procedure established by the state
- 15 interagency council;
- 16 (i) Make periodic reports to the state interagency council regarding the number of
- 17 children referred to the regional council and the progress made in meeting the
- 18 needs of each child;
- 19 (j) Recognize local interagency councils for services to children with an
- 20 emotional disability when it determines the council would be beneficial to
- 21 service delivery; and
- 22 (k) Promote services to prevent the emotional disability of a child.
- 23 (4) The secretary for health and family services~~[families and children]~~ and the
- 24 designee of the State Department of Education shall ensure that regional councils
- 25 for services to children with an emotional disability are formed by October 1, 1990.
- 26 (5) Local interagency councils for services to children with an emotional disability may
- 27 be formed as necessary to enhance service provision, better coordinate services, or

1 initiate special projects and fundraising activities for children with an emotional
2 disability within a city, county, or other local community.

3 Section 205. KRS 200.580 is amended to read as follows:

4 The secretary for **health and family services**~~[families and children]~~ shall:

- 5 (1) Make those services to children and their families known as "family preservation
6 services" accessible to forty percent (40%) of children at imminent risk of being
7 placed outside their homes by 1995 and eventually to all cases where the removal of
8 a child is imminent and provision of such services appropriate;
- 9 (2) Ensure that the statewide availability of family preservation services be
10 accomplished in an orderly fashion allowing the development and evaluation of
11 different program models necessary to provide services across the geographic
12 diversity of the state; and
- 13 (3) Accomplish the implementation of family preservation services by consultation
14 with professionals in the child welfare field, using any technical assistance available
15 from the National Conference of State Legislatures and the Center for the Study of
16 Social Policy.

17 Section 206. KRS 200.585 is amended to read as follows:

- 18 (1) The Department for Community Based Services shall be the lead administrative
19 agency for family preservation services and may receive funding for the
20 implementation of these services. The Department for Community Based Services
21 shall:
- 22 (a) Provide the coordination of and planning for the implementation of family
23 preservation services;
- 24 (b) Provide standards for family preservation services programs;
- 25 (c) Monitor these services to ensure they meet measurable standards of
26 performance as set forth in state law and as developed by the Department for
27 Community Based Services; and

1 (d) Provide the initial training and approve any ongoing training required by
2 providers of family preservation services.

3 (2) The Department for Community Based Services may provide family preservation
4 services directly or may contract with a private, nonprofit social service agency to
5 provide these services. In the event the department provides family preservation
6 services with state caseworkers, those caseworkers and cases shall be excluded for
7 the overall caseworker/case averages provided on a quarterly basis to the Legislative
8 Research Commission and the Governor's office under KRS 199.461. Family
9 preservation services caseworkers and cases shall be included in the report as a
10 separate category.

11 (3) In the event a nonprofit social service agency is contracted by the Department for
12 Community Based Services, to provide family preservation services, the contract
13 shall include:

14 (a) Requirements for provider acceptance of any client referred by the Cabinet for
15 Health and Family Services~~[Families and Children]~~ for family preservation
16 services;

17 (b) Limitation of caseload to four (4) or fewer families per caseworker;

18 (c) Provision of twenty-four (24) hour crisis intervention services to families
19 served by the program;

20 (d) Provision for training of family preservation services staff to meet the
21 following minimum standards:

22 1. Intensive training of not less than forty (40) hours to any therapist before
23 family preservation services clients are assigned. This training is to be
24 provided by individuals with recognized expertise regarding family
25 preservation services and is to concern itself with the required
26 knowledge skills, and techniques for success within the family
27 preservation services model;

- 1 2. A plan for the continuing education of staff therapists after the initial
- 2 forty (40) hours;
- 3 3. Training of not less than twenty (20) hours for a paraprofessional family
- 4 aide before provision of services without the direct supervision of a
- 5 family preservation services caseworker;
- 6 (e) Provide for and conduct internal program evaluation and cooperate with
- 7 external evaluation as directed by the Department for Community Based
- 8 Services;
- 9 (4) To qualify for continued funding under subsection (3) of this section, an agency
- 10 contracting to provide family preservation services shall demonstrate an annual
- 11 success rate of seventy-five percent (75%) in avoiding out-of-home placement six
- 12 (6) months after the cessation of family preservation services.

13 Section 207. KRS 200.595 is amended to read as follows:

- 14 (1) The provision of family preservation services to a family shall constitute a
- 15 reasonable effort by the Cabinet for Health and Family Services~~[Families and~~
- 16 ~~Children]~~ to prevent the removal of a child from the child's home under KRS
- 17 620.140, provided that the family has received timely access to other services from
- 18 the Cabinet for Health and Family Services~~[Families and Children]~~ for which the
- 19 family is eligible.
- 20 (2) Acceptance of family preservation services shall not be considered an admission of
- 21 any allegation that initiated the investigation of the family, nor shall refusal of
- 22 family preservation services be considered as evidence in any proceeding except
- 23 where the issue is whether the Cabinet for Health and Family Services~~[Families~~
- 24 ~~and Children]~~ has made reasonable efforts to prevent removal of a child.
- 25 (3) No family preservation services program shall compel any family member to
- 26 engage in any activity or refrain from any activity which is not reasonably related to
- 27 remedying a condition or conditions that gave rise or which could reasonably give

1 rise to any finding of child abuse, neglect, or dependency.

2 Section 208. KRS 200.600 is amended to read as follows:

- 3 (1) The secretary for **health and family services**~~[families and children]~~ shall conduct a
 4 yearly evaluation of family preservation services which shall include the following:
- 5 (a) The number of families in which family preservation services would be an
 6 available alternative to placement of the child if available;
 - 7 (b) The number of families receiving family preservation services, the number of
 8 children in those families, and the number of children in those families who
 9 would have been placed in out-of-home care if family preservation services
 10 had not been available;
 - 11 (c) Among those families receiving family preservation services, the number of
 12 children placed outside the home;
 - 13 (d) The average cost per family of providing family preservation services;
 - 14 (e) The estimated cost of out-of-home placement which would have been
 15 expended on behalf of those children who received family preservation
 16 services based on average lengths of stay and average costs of out-of-home
 17 placements;
 - 18 (f) The number of children who remain unified with their families six (6) months
 19 and one (1) year after completion of family preservation services; and
 - 20 (g) An overall evaluation of the progress of family preservation services programs
 21 during the preceding year, recommendations for improvements in delivery of
 22 this service, and a plan for the continued development of family preservation
 23 services to ensure progress toward statewide availability.

24 Section 209. KRS 200.605 is amended to read as follows:

- 25 (1) The secretary for **health and family services**~~[families and children]~~ may redirect
 26 funds from amounts budgeted to serve children in out-of-home placement for the
 27 purposes of providing family preservation services to children who would otherwise

1 be removed from their homes.

- 2 (2) The secretary for health and family services~~[families and children]~~ may use any
3 funds that become available through an increase in reimbursement of funds from
4 Title 4-E of the Social Security Act as amended by Pub. L. 96-272 for the purposes
5 of providing family preservation services to children who would otherwise be
6 removed from their homes.

7 Section 210. KRS 200.654 is amended to read as follows:

8 As used in KRS 200.650 to 200.676, unless the context requires otherwise:

- 9 (1) "Awards and contracts" means the state and federal funds designated by the cabinet
10 for projects relating to planning, resource development, or provision of direct early
11 intervention services, as defined in this section, to infants and toddlers with
12 disabilities and their families;
- 13 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 14 (3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers
15 with disabilities who are eligible for early intervention services, determine which
16 children are receiving services, and coordinate the effort with other state agencies
17 and departments;
- 18 (4) "Council" means the Kentucky Early Intervention System Interagency Coordinating
19 Council;
- 20 (5) "District" means one (1) of the fifteen (15) area development districts;
- 21 (6) "District early intervention committee" means an interagency coordinating
22 committee established within each of the fifteen (15) area development districts to
23 facilitate interagency coordination at the district level;
- 24 (7) "Early intervention services" means services for infants and toddlers with
25 disabilities and their families delivered according to an individualized family
26 service plan developed by the child multidisciplinary team to meet the
27 developmental needs of eligible children, as defined in this section, and provided by

1 entities receiving public funds using qualified personnel. The individualized family
2 services plan is developed and the services are provided in collaboration with the
3 families and, to the maximum extent appropriate, in natural environments,
4 including home and community settings in which infants and toddlers without
5 disabilities would participate. These services are necessary to enable the child to
6 reach maximum potential. Services to be made available shall include but not be
7 limited to the following:

- 8 (a) Screening services;
- 9 (b) Evaluation services;
- 10 (c) Assessment services;
- 11 (d) Service coordination;
- 12 (e) Transportation and related costs for accessing early intervention services;
- 13 (f) Family services including counseling, psychological, and social work services;
- 14 (g) Health services including medical services for diagnostic and evaluation
15 purposes only;
- 16 (h) Nutrition services;
- 17 (i) Occupational therapy services;
- 18 (j) Physical therapy services;
- 19 (k) Communication development services;
- 20 (l) Sensory development services;
- 21 (m) Developmental intervention services;
- 22 (n) Assistive technology services; and
- 23 (o) Respite services;

- 24 (8) "Early intervention system" means the management structure established in KRS
25 200.654 to 200.670 and which is comprised of the interdependent array of services
26 and activities for the provision of a statewide, comprehensive, coordinated,
27 multidisciplinary, interagency program for infants and toddlers with disabilities and

1 their families;

2 (9) "Individual family service plan" means the singular comprehensive written service
3 plan developed by the child's multidisciplinary team, with the child's parents serving
4 as fully participating members of the team, to be followed by all agencies and other
5 entities involved in providing early intervention services to an infant or toddler with
6 disabilities and the child's family;

7 (10) "Infants and toddlers with disabilities" and "eligible children" mean children from
8 birth to thirty-six (36) months of age in need of early intervention services as a
9 result of one (1) of the following circumstances:

10 (a) The child is experiencing developmental delays, as measured by diagnostic
11 instruments and procedures in one (1) or more of the following skill areas:
12 physical; cognitive; communication; social or emotional; or adaptive
13 development;

14 (b) The child has a diagnosed physical or mental condition which has a high
15 probability of resulting in developmental delay; or

16 (c) The child has a diagnosis of pervasive developmental disorder;

17 (11) "Multidisciplinary team" means the child-specific group responsible for determining
18 the services needed by the infant or toddler with disabilities and the child's family,
19 and development of the individualized family services plan. The team for each child
20 shall include the parent or guardian of the child and individuals representing at least
21 two (2) applicable disciplines which may include but need not be limited to the
22 following: physical therapy; speech therapy; social work; nursing; or education;

23 (12) "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry
24 into services; and

25 (13) "Qualified service provider" means an entity, including but not limited to an
26 individual, program, department, or agency, responsible for the delivery of early
27 intervention services to eligible infants and toddlers with disabilities and their

families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 211. KRS 200.656 is amended to read as follows:

There is hereby created in state government the Kentucky Early Intervention System to provide services for infants and toddlers with a disability and their families. For administrative purposes, the Kentucky Early Intervention System shall be attached to the Cabinet for Health and Family Services.

Section 212. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;
- (2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- (4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;
- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;
- (6) "Hospital" means:
 - (a) A state mental hospital or institution or other licensed public or private

1 hospital, institution, health-care facility, or part thereof, approved by the
 2 Kentucky Cabinet for Health and Family Services as equipped to provide
 3 full-time residential care and treatment for mentally ill or mentally retarded
 4 persons;

5 (b) A hospital, institution, or health-care facility of the government of the United
 6 States equipped to provide residential care and treatment for mentally ill or
 7 mentally retarded persons;

8 (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of
 9 the District Court acting under authority of SCR 5.030;

10 (8) "Least restrictive alternative mode of treatment" means that treatment which will
 11 give a mentally ill individual a realistic opportunity to improve the individual's level
 12 of functioning, consistent with accepted professional practice in the least confining
 13 setting available;

14 (9) "Mentally ill person" means a person with substantially impaired capacity to use
 15 self-control, judgment, or discretion in the conduct of the person's affairs and social
 16 relations, associated with maladaptive behavior or recognized emotional symptoms
 17 where impaired capacity, maladaptive behavior, or emotional symptoms can be
 18 related to physiological, psychological, or social factors;

19 (10) "Patient" means a person under observation, care, or treatment in a hospital
 20 pursuant to the provisions of this chapter;

21 (11) "Petitioner" means a person who institutes a proceeding under this chapter;

22 (12) "Qualified mental health professional" means:

23 (a) A physician licensed under the laws of Kentucky to practice medicine or
 24 osteopathy, or a medical officer of the government of the United States while
 25 engaged in the performance of official duties;

26 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
 27 osteopathy, or a medical officer of the government of the United States while

1 engaged in the practice of official duties, who is certified or eligible to apply
2 for certification by the American Board of Psychiatry and Neurology, Inc.;

3 (c) A psychologist with the health service provider designation, a psychological
4 practitioner, a certified psychologist, or a psychological associate, licensed
5 under the provisions of KRS Chapter 319;

6 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
7 an accredited institution and two (2) years of clinical experience with mentally
8 ill persons, or a licensed registered nurse, with a bachelor's degree in nursing
9 from an accredited institution, who is certified as a psychiatric and mental
10 health nurse by the American Nurses Association and who has three (3) years
11 of inpatient or outpatient clinical experience in psychiatric nursing and is
12 currently employed by a hospital or forensic psychiatric facility licensed by
13 the Commonwealth or a psychiatric unit of a general hospital or a private
14 agency or company engaged in the provision of mental health services or a
15 regional community mental health and mental retardation program;

16 (e) A licensed clinical social worker licensed under the provisions of KRS
17 335.100, or a certified social worker licensed under the provisions of KRS
18 335.080 with three (3) years of inpatient or outpatient clinical experience in
19 psychiatric social work and currently employed by a hospital or forensic
20 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a
21 general hospital or a private agency or company engaged in the provision of
22 mental health services or a regional community mental health and mental
23 retardation program;

24 (f) A marriage and family therapist licensed under the provisions of KRS 335.300
25 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
26 psychiatric mental health practice and currently employed by a hospital or
27 forensic facility licensed by the Commonwealth, a psychiatric unit of a general

1 hospital, a private agency or company engaged in providing mental health
 2 services, or a regional community mental health and mental retardation
 3 program; or

4 (g) A professional counselor credentialed under the provisions of KRS Chapter
 5 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical
 6 experience in psychiatric mental health practice and currently employed by a
 7 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
 8 of a general hospital, a private agency or company engaged in providing
 9 mental health services, or a regional community mental health and mental
 10 retardation program;

11 (13) "Residence" means legal residence as determined by applicable principles
 12 governing conflicts of law;

13 (14) "Respondent" means a person alleged in a hearing under this chapter to be a
 14 mentally ill or mentally retarded person;

15 (15) "Secretary" means the secretary of the Cabinet for Health and Family Services.

16 Section 213. KRS 202A.201 is amended to read as follows:

17 (1) When an inmate of any penal and correctional institution is reported by the staff of
 18 that institution to the Department of Corrections as being so mentally ill that he
 19 cannot be properly treated with the facilities at the disposal of the staff, the
 20 Department of Corrections shall have an examination conducted on the inmate by a
 21 mental health professional.

22 (2) If this examination reveals that the inmate is mentally ill and appropriate treatment
 23 cannot be properly carried out in the institution in which he is incarcerated or within
 24 the facilities at the disposal of the Department of Corrections, the commissioner of
 25 the Department of Corrections may then request of the secretary of the Cabinet for
 26 Health and Family Services the inmate's transfer to a hospital or forensic
 27 psychiatric facility. If the secretary of the Cabinet for Health and Family Services

1 agrees that a transfer is necessary, the person shall be transferred to a Cabinet for
 2 Health and Family Services facility designated by the secretary of the Cabinet for
 3 Health and Family Services, where the person shall remain until the staff of the
 4 facility which received him advises the commissioner of the Department of
 5 Corrections that the person's condition is such that he may be returned to the
 6 institution from which he came. No transfer shall be made to a correctional facility
 7 located on the grounds of a state mental hospital. The commissioner of the
 8 Department of Corrections shall then authorize his return. If the prisoner's sentence
 9 expires during his stay in the facility and he is still in need of involuntary
 10 hospitalization, the staff of the facility shall petition the applicable District Court for
 11 further involuntary hospitalization of the patient under provisions of this chapter.

12 (3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily
 13 agrees to the transfer, the commissioner shall:

- 14 (a) Send written notice to the prisoner that a transfer to a hospital or forensic
 15 psychiatric facility is being considered in sufficient time to permit the prisoner
 16 to prepare for the hearing;
- 17 (b) Hold a hearing at which time the prisoner is made aware of the evidence being
 18 relied upon for the transfer and at which an opportunity to be heard in person
 19 and to present documentary evidence is given;
- 20 (c) Provide an opportunity at the hearing to the prisoner to present testimony of
 21 witnesses and to confront and cross-examine witnesses called by the
 22 Department of Corrections, except upon a finding, not arbitrarily made, of
 23 good cause for not permitting the presentation;
- 24 (d) Provide an independent decision maker who has not participated in the request
 25 for transfer to a hospital or forensic psychiatric facility;
- 26 (e) Issue a written statement by the fact finder as to the evidence relied on and the
 27 reasons for transferring the prisoner; and

1 (f) Provide effective and timely notice of all the foregoing rights.

2 (4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall
3 remain unchanged until the termination of his sentence. The facility staff shall have
4 no authority to parole, grant permission to visit relatives or friends outside the
5 facility, or discharge the individual unless otherwise agreed to by the Department of
6 Corrections. The time the prisoner spends in the facility shall be counted as a part of
7 the prisoner's sentence.

8 Section 214. KRS 202A.241 is amended to read as follows:

9 All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645,
10 shall use the least restrictive level of restraint consistent with the person's needs. The
11 Cabinet for Health and Family Services shall promulgate administrative regulations
12 subject to the provisions of KRS Chapter 13A which shall include guidelines addressing
13 the person's need for privacy, particularly when being restrained, and the person's ability
14 to communicate by phone at the earliest opportunity available.

15 Section 215. KRS 202A.410 is amended to read as follows:

16 (1) When a patient who has been involuntarily committed to a psychiatric facility or
17 forensic psychiatric facility and who has been charged with or convicted of a violent
18 crime as defined in KRS 439.3401 is discharged or transferred from the facility, the
19 administrator shall notify the law enforcement agency in the county to which the
20 person is to be released, the prosecutor in the county where the violent crime was
21 committed, and the Department of Corrections.

22 (2) If a patient who has been involuntarily committed to a psychiatric facility or
23 forensic psychiatric facility and who has been charged with or convicted of a violent
24 crime as defined in KRS 439.3401 escapes from the facility, the administrator shall
25 notify the law enforcement agency in the county in which the facility is located, the
26 prosecutor in the county where the violent crime was committed, and the
27 Department of Corrections.

1 (3) The administrator of a psychiatric facility or forensic psychiatric facility, or the
 2 administrator's designee, who acts in good faith in making the notifications required
 3 in this section or is unable to provide the release information required, is immune
 4 from any civil liability.

5 (4) The Department of Corrections shall notify, or contract with a private entity to
 6 notify, victims of crime who have made a notification request of the discharge or
 7 escape of a patient from a psychiatric facility or forensic psychiatric facility.

8 (5) The Department of Corrections and the Cabinet for Health and Family Services
 9 shall each promulgate administrative regulations under KRS Chapter 13A to carry
 10 out the duties set forth in this statute.

11 Section 216. KRS 202B.010 is amended to read as follows:

12 As used in this chapter, unless the context otherwise requires:

13 (1) "Authorized staff physician" means a person who is employed as a physician of an
 14 ICF/MR;

15 (2) "Interdisciplinary team" means the group of persons responsible for the diagnosis,
 16 evaluation, and individualized program planning and service implementation for the
 17 resident. The team is composed of a physician, a psychologist, a registered nurse, a
 18 social worker, and other professionals, at least one (1) of whom is a qualified
 19 mental retardation professional, and may include the resident, the resident's family,
 20 or the guardian;

21 (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;

22 (4) "Danger" or "threat of danger to self, family, or others" means substantial physical
 23 harm or threat of substantial physical harm upon self, family, or others, including
 24 actions which deprive self, family, or others of the basic means of survival
 25 including provision for reasonable shelter, food, or clothing;

26 (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
 27 designated by the secretary for the purpose and function of providing inpatient

1 evaluation, care, and treatment for mentally ill or mentally retarded persons who
2 have been charged with or convicted of a felony;

3 (6) "Hospital" means:

4 (a) A state mental hospital or institution or other licensed public or private
5 hospital, institution, health-care facility, or part thereof, approved by the
6 Kentucky Cabinet for Health and Family Services as equipped to provide
7 full-time residential care and treatment for mentally ill or mentally retarded
8 persons;

9 (b) A hospital, institution, or health-care facility of the government of the United
10 States equipped to provide residential care and treatment for mentally ill or
11 mentally retarded persons;

12 (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of
13 the District Court acting under authority of SCR 5.030;

14 (8) "Least restrictive alternative mode of treatment" means that treatment given in the
15 least confining setting which will provide a mentally retarded person appropriate
16 treatment or care consistent with accepted professional practice. For purposes of
17 this section, least restrictive alternative mode of treatment may include an
18 institutional placement;

19 (9) "Mentally retarded person" means a person with significantly subaverage general
20 intellectual functioning existing concurrently with deficits in adaptive behavior and
21 manifested during the developmental period;

22 (10) "ICF/MR" means an intermediate-care facility approved by the cabinet for the
23 evaluation, care, and treatment of mentally retarded persons;

24 (11) "Petitioner" means a person who institutes a proceeding under this chapter;

25 (12) "Qualified mental retardation professional" means:

26 (a) A physician licensed under the laws of Kentucky to practice medicine or
27 osteopathy, or a medical officer of the government of the United States while

1 engaged in the performance of official duties;

2 (b) A psychologist with the health service provider designation, a psychological
3 practitioner, a certified psychologist, or a psychological associate licensed
4 under the provisions of KRS Chapter 319;

5 (c) A licensed registered nurse with a master's degree in psychiatric nursing from
6 an accredited institution and two (2) years of clinical experience of which one
7 (1) year is with mentally retarded persons; or a licensed registered nurse, with
8 a bachelor's degree in nursing from an accredited institution, who has three (3)
9 years of inpatient or outpatient clinical experience of which one (1) year is in
10 the field of mental retardation and is currently employed by an ICF/MR
11 licensed by the cabinet, a hospital, a regional community mental health and
12 mental retardation program, or a private agency or company engaged in the
13 provision of mental retardation services;

14 (d) A licensed clinical social worker licensed under the provisions of KRS
15 335.100, or a certified social worker licensed under the provisions of KRS
16 335.080 with two (2) years of inpatient or outpatient clinical experience in
17 social work of which one (1) year shall be in the field of mental retardation
18 and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a
19 regional community mental health and mental retardation program, or a
20 private agency or company engaged in the provision of mental retardation
21 services;

22 (e) A marriage and family therapist licensed under the provisions of KRS 335.300
23 to 335.399 with three (3) years of inpatient or outpatient clinical experience in
24 psychiatric mental health practice and currently employed by a hospital or
25 forensic facility licensed by the Commonwealth, a psychiatric unit of a general
26 hospital, a private agency or company engaged in providing mental health
27 services, or a regional community mental health and mental retardation

1 program; or

2 (f) A professional counselor credentialed under the provisions of KRS 335.500 to
 3 335.599 with three (3) years of inpatient or outpatient clinical experience in
 4 psychiatric mental health practice and currently employed by a hospital or
 5 forensic facility licensed by the Commonwealth, a psychiatric unit of a general
 6 hospital, a private agency or company engaged in providing mental health
 7 services, or a regional community mental health and mental retardation
 8 program;

9 (13) "Residence" means legal residence as determined by applicable principles
 10 governing conflicts of law;

11 (14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the
 12 provisions of this chapter;

13 (15) "Respondent" means a person alleged in a hearing under this chapter to be a
 14 mentally retarded person; and

15 (16) "Secretary" shall mean the secretary of the Cabinet for Health and Family Services.

16 Section 217. KRS 205.179 is amended to read as follows:

17 The Cabinet for Health and Family Services shall conduct an annual review of all
 18 addresses or locations at which four (4) or more persons reside who receive state
 19 supplementation of federal supplemental security income benefits to determine if the
 20 address or location is a boarding home that has not registered pursuant to KRS 216B.305.
 21 The results of the review shall be reported to the Division~~[Office]~~ of Aging Services and
 22 action shall be taken to ensure the registration of all unregistered boarding homes that are
 23 identified.

24 Section 218. KRS 205.180 is amended to read as follows:

25 The secretary for health and family services~~[families and children]~~ may authorize the
 26 destruction of such original reports and records as have been properly recorded or
 27 summarized in the permanent records of the cabinet or are no longer considered necessary

1 to the proper administration of the cabinet. Such destruction or disposition shall be made
2 only by order of the secretary. Any money received from the disposition of such records
3 shall be deposited to the credit of trust and agency accounts.

4 Section 219. KRS 205.201 is amended to read as follows:

5 The duties of the Cabinet for Health and Family Services shall be to:

- 6 (1) Promote and aid in the establishment of local programs and services for the aging;
- 7 (2) Conduct programs to educate the public as to problems of the aging;
- 8 (3) Review existing state programs and services for the aging and to make
9 recommendations to the Governor, to the appropriate department and agencies of
10 the state, and to the legislature for improvements in and additions to such programs
11 and services;
- 12 (4) Assist and encourage governmental and private agencies to coordinate their efforts
13 on behalf of the aging;
- 14 (5) Conduct and encourage other organizations to conduct studies concerning the aging;
- 15 (6) Establish, in selected areas and communities of the state, programs of services for
16 the aging to demonstrate the value of such programs, and to encourage local
17 agencies to continue the programs and to create new services where needed.
18 Emphasis shall be given to services designed to foster continued participation of
19 older people in family and community life and to lessen the need for institutional
20 care;
- 21 (7) Provide services designed to meet the needs of the minority elderly in programs
22 administered by the cabinet. The cabinet shall annually prepare a report identifying
23 the special needs of the minority elderly population in the Commonwealth as
24 compared to the elderly population at large. The report shall be completed no later
25 than October 1 of each year and transmitted to the Legislative Research
26 Commission. The report shall, at a minimum:
 - 27 (a) Contain an overview of the health status of minority elderly Kentuckians;

- 1 (b) Identify specific diseases and health conditions for which the minority elderly
- 2 are at greater risk than the general population;
- 3 (c) Identify problems experienced by the minority elderly in obtaining services
- 4 from governmental agencies; and
- 5 (d) Identify programs at the state and local level designed to specifically meet the
- 6 needs of the minority elderly;
- 7 (8) In preparing the report required by subsection (7) of this section, the cabinet shall
- 8 solicit and consider the input of individuals and organizations representing the
- 9 concerns of the minority elderly population as relates to:
- 10 (a) Programs and services needed by the minority elderly;
- 11 (b) The extent to which existing programs do not meet the needs of the minority
- 12 elderly;
- 13 (c) The accessibility of existing programs to the minority elderly;
- 14 (d) The availability and adequacy of information regarding existing services;
- 15 (e) Health problems the minority elderly experience at a higher rate than the
- 16 nonminority elderly population; and
- 17 (f) Financial, social, and other barriers experienced by the minority elderly in
- 18 obtaining services;
- 19 (9) Conduct an outreach program that provides information to minority elderly
- 20 Kentuckians about health and social problems experienced by minority elderly
- 21 persons and available programs to address those problems, as identified in the
- 22 report prepared pursuant to subsection (7) of this section; and
- 23 (10) Cooperate with the federal government and with the governments of other states in
- 24 programs relating to the aging.

25 Section 220. KRS 205.202 is amended to read as follows:

26 The secretary of the Cabinet for Health and Family Services shall be empowered to

27 accept and expend gifts and grants from any source. Such moneys shall go into a trust and

1 agency fund to be administered by the cabinet in furtherance of the purposes of the
2 provisions of KRS 205.201 to 205.204.

3 Section 221. KRS 205.203 is amended to read as follows:

4 (1) The secretary of the Cabinet for Health and Family Services may provide, within
5 budgetary limitations, for in-home services to the aging to include, but not
6 necessarily limited to: homemaker services; home-help therapy services; day-care
7 services; home-delivered meal services; transportation services; foster care services;
8 and health services.

9 (2) The cabinet is authorized to collect fees for services rendered pursuant to this
10 section in accordance with a fee schedule adopted by the secretary for health and
11 family services. The fee schedule shall take into consideration the ability of the
12 patient or client to pay for such services. Fees shall not be collected from any person
13 who is "needy aged" as defined by KRS 205.010.

14 (3) The secretary may utilize and promote available or potential community resources
15 for the delivery of services to the aging and shall, when he deems appropriate,
16 contract for services with local, community, private agencies, and individuals,
17 including relatives of patients and clients, when such services would not otherwise
18 be available without cost.

19 (4) The services to the aging authorized under this section are in addition and
20 supplementary to any services to which the aging may be entitled under any other
21 federal, state, or local governmental law, regulation, or program.

22 (5) The services to the aging authorized under this section shall be designed to meet the
23 needs of the minority elderly as identified by the Cabinet for Health and Family
24 Services pursuant to KRS 205.201.

25 Section 222. KRS 205.204 is amended to read as follows:

26 (1) The Cabinet for Health and Family Services, unless otherwise directed by an
27 executive order of the Governor, is designated the agency of this state for the

1 purpose of administering the Older Americans Act of 1965, Pub. L. 89-73,
2 including all amendments thereto. In administering programs and allocating funds
3 under the Older Americans Act, the cabinet shall design programs and allocate
4 funds to meet the needs of the minority elderly as identified by the cabinet pursuant
5 to KRS 205.201.

- 6 (2) The secretary for health and family services may promulgate such administrative
7 regulations as are necessary to comply with any requirement imposed or required by
8 federal law.

9 Section 223. KRS 205.217 is amended to read as follows:

- 10 (1) As used in this section, unless the context requires otherwise:

11 (a) "Case manager" means an employee of the area development district or an
12 agency under contract with the area development district who shall assist any
13 functionally impaired person in identifying and accessing the long-term-care
14 services most appropriate to the individual's social and medical needs.

15 (b) "Functionally impaired person" means any person who is unable to perform
16 without assistance any of the activities of daily living including, but not
17 limited to dressing, bathing, toileting, transferring, or feeding, or any of the
18 instrumental activities of daily living including but not limited to meal
19 preparation, laundry, housecleaning, budgeting, and shopping.

- 20 (2) There shall be established within the Cabinet for Health and Family Services a
21 Long-Term Care Case Management Demonstration Program to consolidate and
22 coordinate all services provided or funded by the cabinet with respect to long-term
23 care, conducted in at least three (3) area development districts. This demonstration
24 program shall serve as the focal point for the provision of all services provided to
25 functionally impaired persons to assure that services are consistent with the
26 following goals:

27 (a) That functionally impaired persons be allowed to live independently at home

1 or with others as long as the citizen desires without requiring inappropriate or
 2 premature institutionalization;

3 (b) That services provided or funded by the cabinet promote independent living
 4 by functionally impaired persons and prevent or minimize illness or social
 5 isolation;

6 (c) That institutional services be used only as a last resort when in-home or
 7 community-based support services are not available or are not adequate to
 8 meet the needs of functionally impaired persons;

9 (d) That a single entry point for all services for functionally impaired persons be
 10 available to all persons in need of information about or access to the services;
 11 and

12 (e) That the use of informal providers of care, such as friends and relatives of
 13 functionally impaired persons, be used as long as possible before paid services
 14 are utilized.

15 (3) The following programs and services shall be included in the Long-Term Care Case
 16 Management Demonstration Program:

17 (a) Hospital-based long-term-care services including dual-licensed beds, swing
 18 beds and physical rehabilitation services, skilled-nursing facility services,
 19 intermediate-care-facility services, nursing-facility services, home-health
 20 services, and home- and community-based waiver services funded by the
 21 Kentucky Medical Assistance Program;

22 (b) In-home and community-based services for elderly persons funded under the
 23 Older Americans Act (42 U.S.C. secs. 3001 et seq.) and Title XX of the Social
 24 Security Act (42 U.S.C. secs. 1397-1397f);

25 (c) Services provided under the home care program pursuant to KRS 205.460;
 26 and

27 (d) Personal-care-home services or domiciliary care funded by supplemental

1 payments to persons receiving supplemental security income benefits pursuant
2 to KRS 205.245.

- 3 (4) The Long-Term Care Case Management Demonstration Program shall employ a
4 system of case management to assure that appropriate services are provided to all
5 persons using or applying for the services set forth in subsection (3) of this section,
6 and that the services are consistent with the goals set forth in subsection (2) of this
7 section. All persons applying for these services shall be assigned a case manager.
8 The duties of the case manager shall include preparation of a general plan of care,
9 based on the person's need for services, arranging placements or other needed
10 services or equipment, coordination and management of the applicant through the
11 eligibility process for these services, and reviewing each case on a periodic basis to
12 assure the plan of care is being followed. Case management shall not include the
13 determination of eligibility for Medicaid covered services, long-term-care facility
14 preadmission reviews, level-of-care determinations for purposes of Medicaid
15 reimbursement, or peer review activities. The general plan of care shall not replace
16 a daily care plan prescribed by a physician for treatment of a person in a hospital or
17 long-term-care facility or receiving home-health services. The general plan of care
18 shall identify the categories of services or type of placement required and the
19 providers of the services. Case managers shall serve as advocates for applicants for
20 the services set forth in subsection (3) of this section, and shall interact with the
21 existing administrative structure within the Cabinet for Health and Family Services
22 to meet the goals stated in subsection (2) of this section. Patients discharged from a
23 hospital to a long-term-care facility shall receive case management services in the
24 hospital on a timely basis or immediately after admission to a long-term-care
25 facility. The goal of each case plan shall be the provision of services in the least
26 restrictive setting designed to best meet the individual needs of the functionally
27 impaired person. When persons are determined to need services to maintain

independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.

(5) The cabinet, through the Long-Term Care Demonstration Program, shall provide access to information, counseling, and screening as appropriate, for persons potentially in need of long-term-care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201. The cabinet may charge a fee for providing information, counseling, and screening services based on the client's ability to pay.

(6) The secretary for health and family services may promulgate administrative regulations necessary to implement the Long-Term Care Demonstration Program.

Section 224. KRS 205.245 is amended to read as follows:

Money payments made by the Cabinet for Health and Family Services~~[Families and Children]~~ to the needy aged, needy blind, and the needy permanently and totally disabled shall be:

(1) Mandatory state supplementation of the supplemental security income program as established by federal law and regulations and administered in the manner agreed to by the secretary of the United States Department of Health, Education, and Welfare and the secretary of the Cabinet for Health and Family Services~~[Families and Children]~~, or their authorized representatives; and

(2) Supplemental payments to persons requiring special living arrangements as they become eligible for the supplemental security income program, to insure the same level of care as those persons covered under the provisions of subsection (1) of this section.

Section 225. KRS 205.400 is amended to read as follows:

- 1 (1) There is established within the Cabinet for *Health and Family Services*~~[Families~~
2 ~~and Children]~~ an Energy Cost Assistance Program for making money payments to
3 or on behalf of citizens of the Commonwealth for the purpose of purchasing or
4 supplementing the cost of energy for household use.
- 5 (2) Citizens of the Commonwealth who incur expenses for providing energy by
6 purchase from suppliers, by their own labors, or through the payment of rent,
7 whether or not included in a charge for other goods and services, which includes the
8 cost of energy supplied to premises occupied as their principal residence, shall be
9 eligible to receive the benefit of the payments to themselves or to providers of
10 energy to such household if:
 - 11 (a) The citizen is sixty-two (62) years of age or older and has or is a member of a
12 family having a gross income equal to or less than one hundred twenty-five
13 percent (125%) of the poverty level of income for an individual or family of
14 that size designated by the Community Services Administration of the United
15 States government; or
 - 16 (b) The citizen is blind or permanently and totally disabled and receiving
17 supplemental security income benefits under the Social Security Act or is
18 blind or permanently and totally disabled and is currently eligible for
19 Medicaid benefits under the Medical Assistance Program.
- 20 (3) The cabinet shall establish by regulation a schedule of payments and benefit levels
21 under this program to be based on income, resources, and family size. In no event
22 shall payments be made to or on behalf of any person or family whose gross income
23 from all sources exceeds one hundred twenty-five percent (125%) of the poverty
24 level of income as provided for such individuals or family by the Community
25 Services Administration of the United States government.
- 26 (4) Payments made under this section shall be for a period of four (4) months during
27 each twelve (12) month period for which funds are available. At its discretion and

1 to insure the proper application of the funds appropriated for this purpose, the
2 cabinet may elect to make payments to vendors or suppliers or jointly to vendors
3 and eligible recipients.

4 Section 226. KRS 205.455 is amended to read as follows:

5 As used in KRS 205.460 and 205.465:

6 (1) "Chore services" means the performance of heavy housecleaning, minor household
7 repairs, yard tasks, and other activities needed to assist in the maintenance of a
8 functionally impaired elderly person in his own home.

9 (2) "Core services" means those services, including but not limited to client assessment
10 and case management services, designed to identify a functionally impaired elderly
11 person's needs, develop a plan of care, arrange for services, monitor the provision of
12 services, and reassess the person's needs on a regular basis.

13 (3) "Cabinet" means the Cabinet for Health and Family Services.

14 (4) "District" means an area development district designated pursuant to KRS
15 147A.050.

16 (5) "Escort services" means the accompaniment of a person who requires such
17 assistance for reasons of safety or protection to or from his physician, dentist, or
18 other necessary services.

19 (6) "Essential services" means those services which are most needed to prevent
20 unnecessary institutionalization of functionally impaired elderly persons. Essential
21 services shall include chore services, home-delivered meals, home-health aide
22 services, homemaker services, respite services, escort services, and home repair
23 services.

24 (7) "Functionally impaired elderly person" means any person, sixty (60) years of age or
25 older, with physical or mental limitations which restrict individual ability to
26 perform the normal activities of daily living and which impede individual capacity
27 to live independently, thus rendering such person at risk of entering an institution.

1 Functional impairment shall be determined through a functional assessment
2 developed by the cabinet and delivered to each applicant for essential services.

3 (8) "Home-delivered meals" means the provision of a nutritionally sound meal, that
4 meets at least one-third (1/3) of the current daily recommended dietary allowance,
5 to a functionally impaired elderly person who is homebound by reason of illness,
6 incapacity, or disability.

7 (9) "Home-health aide services" means the performance of simple procedures,
8 including but not limited to personal care, ambulation, exercises, household services
9 essential to health care at home, assistance with medications that are ordinarily self-
10 administered, reporting changes in the patient's condition and needs, and completing
11 appropriate records.

12 (10) "Homemaker services" means general household activities, including but not
13 limited to nonmedical personal care, shopping, meal preparation, and routine
14 household care, provided by a trained homemaker when the person regularly
15 responsible for these activities is temporarily absent or unable to manage the home
16 and care for himself or others in the home.

17 (11) "Home repair services" means the provision of minor home adaptations, additions,
18 or modifications to enable the elderly to live independently or safely or to facilitate
19 mobility including, where appropriate, emergency summons systems.

20 (12) "Respite services" means care provided by an approved caregiver or agency for a
21 designated time period because of absence or need for relief of a primary caregiver.

22 Section 227. KRS 205.510 is amended to read as follows:

23 As used in this chapter as it pertains to medical assistance unless the context clearly
24 requires a different meaning:

25 (1) "Chiropractor" means a person authorized to practice chiropractic under KRS
26 Chapter 312;

27 (2) "Council" means the Advisory Council for Medical Assistance;

- 1 (3) "Dentist" means a person authorized to practice dentistry under laws of the
2 Commonwealth;
- 3 (4) "Health professional" means a physician, physician assistant, nurse, doctor of
4 chiropractic, mental health professional, optometrist, dentist, or allied health
5 professional who is licensed in Kentucky;
- 6 (5) "Medical care" as used in this chapter means essential medical, surgical,
7 chiropractic, dental, optometric, podiatric, telehealth, and nursing services, in the
8 home, office, clinic, or other suitable places, which are provided or prescribed by
9 physicians, optometrists, podiatrists, or dentists licensed to render such services,
10 including drugs and medical supplies, appliances, laboratory, diagnostic and
11 therapeutic services, nursing-home and convalescent care, hospital care as defined
12 in KRS 205.560(1)(a), and such other essential medical services and supplies as
13 may be prescribed by such persons; but not including abortions, or induced
14 miscarriages or premature births, unless in the opinion of a physician such
15 procedures are necessary for the preservation of the life of the woman seeking such
16 treatment or except in induced premature birth intended to produce a live viable
17 child and such procedure is necessary for the health of the mother or her unborn
18 child. However, this section does not authorize optometrists to perform any services
19 other than those authorized by KRS Chapter 320;
- 20 (6) "Nurse" means a person authorized to practice professional nursing under the laws
21 of the Commonwealth;
- 22 (7) "Nursing home" means a facility which provides routine medical care in which
23 physicians regularly visit patients, which provide nursing services and procedures
24 employed in caring for the sick which require training, judgment, technical
25 knowledge, and skills beyond that which the untrained person possesses, and which
26 maintains complete records on patient care, and which is licensed pursuant to the
27 provisions of KRS 216B.015;

- 1 (8) "Optometrist" means a person authorized to practice optometry under the laws of
2 the Commonwealth;
- 3 (9) "Other persons eligible for medical assistance" may include the categorically needy
4 excluded from money payment status by state requirements and classifications of
5 medically needy individuals as permitted by federal laws and regulations and as
6 prescribed by administrative regulation of the secretary for health and family
7 services or his designee;
- 8 (10) "Pharmacist" means a person authorized to practice pharmacy under the laws of the
9 Commonwealth;
- 10 (11) "Physician" means a person authorized to practice medicine or osteopathy under the
11 laws of the Commonwealth;
- 12 (12) "Podiatrist" means a person authorized to practice podiatry under the laws of the
13 Commonwealth;
- 14 (13) "Primary-care center" means a facility which provides comprehensive medical care
15 with emphasis on the prevention of disease and the maintenance of the patients'
16 health as opposed to the treatment of disease;
- 17 (14) "Public assistance recipient" means a person who has been certified by the
18 Department for Community Based Services of the Cabinet for Health and Family
19 Services~~[Families and Children]~~ as being eligible for, and a recipient of, public
20 assistance under the provisions of this chapter;
- 21 (15) "Telehealth consultation" means a medical or health consultation, for purposes of
22 patient diagnosis or treatment, that requires the use of advanced
23 telecommunications technology, including, but not limited to:
24 (a) Compressed digital interactive video, audio, or data transmission;
25 (b) Clinical data transmission via computer imaging for teleradiology or
26 telepathology; and
27 (c) Other technology that facilitates access to health care services or medical

1 specialty expertise; and

- 2 (16) "Third party" means an individual, institution, corporation, company, insurance
3 company, personal representative, administrator, executor, trustee, or public or
4 private agency, including, but not limited to, a reparation obligor and the assigned
5 claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS
6 Chapter 304, who is or may be liable to pay all or part of the medical cost of injury,
7 disease, or disability of an applicant or recipient of medical assistance provided
8 under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and
- 9 (17) "Vendor payment" means a payment for medical care which is paid by the Cabinet
10 for Health and Family Services directly to the authorized person or institution
11 which rendered medical care to an eligible recipient.

12 Section 228. KRS 205.520 is amended to read as follows:

- 13 (1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."
- 14 (2) The General Assembly of the Commonwealth of Kentucky recognizes and declares
15 that it is an essential function, duty, and responsibility of the state government to
16 provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510
17 to 205.630 to provide such care.
- 18 (3) Further, it is the policy of the Commonwealth to take advantage of all federal funds
19 that may be available for medical assistance. To qualify for federal funds the
20 secretary for health and family services may by regulation comply with any
21 requirement that may be imposed or opportunity that may be presented by federal
22 law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power
23 in this respect.
- 24 (4) It is the intention of the General Assembly to comply with the provisions of Title
25 XIX of the Social Security Act which require that the Kentucky Medical Assistance
26 Program recover from third parties which have a legal liability to pay for care and
27 services paid by the Kentucky Medical Assistance Program.

- 1 (5) The Kentucky Medical Assistance Program shall be the payor of last resort and its
2 right to recover under KRS 205.622 to 205.630 shall be superior to any right of
3 reimbursement, subrogation, or indemnity of any liable third party.

4 Section 229. KRS 205.525 is amended to read as follows:

- 5 (1) Concurrent with submitting an application for a waiver or waiver amendment or a
6 request for a plan amendment to any federal agency that approves waivers, waiver
7 amendments, and plan amendments, the Cabinet for Health and Family Services
8 shall provide to the Interim Joint Committee on Health and Welfare and to the
9 Interim Joint Committee on Appropriations and Revenue a copy, summary, and
10 statement of benefits of the application for a waiver or waiver amendment or
11 request for a plan amendment.

- 12 (2) The cabinet at least quarterly shall provide an update to the Interim Joint Committee
13 on Health and Welfare and to the Interim Joint Committee on Appropriations and
14 Revenue on the status of the application for a waiver or waiver amendment or
15 request for a plan amendment.

16 Section 230. KRS 205.540 is amended to read as follows:

- 17 (1) An Advisory Council for Medical Assistance shall be established in the state
18 government. The council shall consist of eighteen (18) members. The secretary for
19 health and family services shall be an ex officio member. The other seventeen (17)
20 members of the council shall be appointed by the Governor and shall hold office for
21 a term of four (4) years and until their successors are appointed and qualify, except
22 that the members appointed to fill the first vacancy occurring for a term beginning
23 on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one
24 (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four
25 (4) years, and the respective terms of the first members shall be designated by the
26 Governor at the time of their appointments. Upon the expiration of the respective
27 terms of the members first appointed, the term of each successor shall be for four

1 (4) years and until his successor is appointed and qualified. Ten (10) of the
2 appointments shall be made one (1) from each list of three (3) nominees submitted
3 by the following organizations: the Kentucky State Medical Association; the
4 Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky
5 Pharmacists Association; the Kentucky Association of Health Care Facilities; the
6 Kentucky Nurses' Association; the State Board of Podiatry; the Kentucky Home
7 Health Association; the Kentucky Optometric Association; and the Kentucky
8 Association of Nonprofit Homes and Services for the Aging, Inc. The other seven
9 (7) appointive members shall be health-care advocates knowledgeable about health
10 care and the health-care industry, and shall include three (3) medical assistance
11 recipients, one (1) representative of a recognized consumer advocacy group
12 representing the elderly; and three (3) representatives of recognized consumer
13 advocacy groups whose membership includes low-income persons, children and
14 youth, women, minorities, and disabled persons.

15 (2) Each appointive member of the council shall serve without compensation but each
16 council member not otherwise compensated for his time or expenses shall be
17 entitled to reimbursement for his actual and necessary expenses in carrying out his
18 duties with reimbursement for expenses being made in accordance with state
19 regulations relating to travel reimbursement.

20 (3) Vacancies shall be filled for the unexpired term in the same manner as original
21 appointments, maintaining representations as set out in subsection (1) of this
22 section.

23 (4) The council shall elect a chairman, vice chairman, and secretary from among its
24 members at its first regular meeting in each fiscal year and shall adopt rules
25 governing its proceedings. The council shall hold a meeting at least once every three
26 (3) months and such other special or regular meetings as may be desired.

27 (5) No consumer member of the council shall have a fiduciary relationship or interest in

1 any health-care facility or service.

2 Section 231. KRS 205.550 is amended to read as follows:

3 (1) The council shall advise the Cabinet for Health and Family Services about health
4 and medical care services.

5 (2) The council shall have the opportunity for participation in policy development and
6 program administration and shall advise the Cabinet for Health and Family
7 Services on such matters.

8 (3) The council shall give advice regarding how to further the participation of recipient
9 members in the policy development and program administration of the Medical
10 Assistance Program.

11 Section 232. KRS 205.558 is amended to read as follows:

12 (1) To prevent inappropriate placement and to contain costs related thereto, the
13 secretary for health and family services shall implement a statewide prescreening
14 and admissions review system, including the imposition of a resource means test,
15 for all long-term-care facilities and beds, as defined under KRS Chapter 216, and
16 any acute-care hospital-based skilled-nursing or intermediate-care beds participating
17 under Title XIX of the Social Security Act, regardless of the payment status of the
18 resident upon admission. Any person having resources sufficient to cover the cost of
19 care for at least three hundred sixty-five (365) days following admission may be
20 admitted to a long-term care bed or facility if such person so desires; provided,
21 however, that if a person:

22 (a) Is admitted to a long-term-care facility or acute-care hospital-based skilled-
23 nursing or intermediate-care bed without participating in the prescreening and
24 admissions review system; or

25 (b) Participates in the prescreening and admissions review system and is not
26 authorized for placement in a long-term-care facility or acute-care hospital-
27 based skilled-nursing or intermediate-care bed;

1 such person is not eligible for medical assistance payment for skilled-nursing or
 2 intermediate-care for one (1) year after the date of the person's admission to a
 3 skilled-nursing or intermediate-care facility or acute-care hospital-based skilled-
 4 nursing or intermediate-care bed unless the person subsequently participates in the
 5 prescreening and admissions review system and is authorized for admission to an
 6 intermediate-care or skilled-nursing facility or acute-care hospital-based skilled-
 7 nursing or intermediate-care bed.

8 (2) To implement the provisions of this section the cabinet shall establish preadmission
 9 screening teams composed of a nurse, social worker, and physician.

10 (3) Before preauthorization of any person for admission to an intermediate-care facility
 11 or skilled-care facility or acute-care hospital-based skilled-nursing or intermediate-
 12 care bed, the cabinet shall first make the following determinations:

13 (a) The health status and care needs of the person require immediate
 14 institutionalization in an intermediate-care facility or skilled-nursing facility
 15 or acute-care hospital-based skilled-nursing or intermediate-care bed;

16 (b) The person and his family have been fully advised of alternatives to
 17 institutional care and possible sources of reimbursement for such care;

18 (c) Alternatives to institutional care are not feasible; and

19 (d) Other such determinations as specified by administrative regulations
 20 promulgated by the cabinet under KRS Chapter 13A.

21 (4) Admission of a person to an intermediate-care facility, or a skilled-nursing facility
 22 without first obtaining prior authorization from the Cabinet for Health and Family
 23 Services shall constitute a Class B violation.

24 (5) The secretary for the cabinet shall promulgate such administrative regulations,
 25 subject to KRS Chapter 13A, as necessary to implement this section.

26 Section 233. KRS 205.559 is amended to read as follows:

27 (1) The Cabinet for Health and Family Services and any regional managed care

1 partnership or other entity under contract with the cabinet for the administration or
2 provision of the Medicaid program shall provide Medicaid reimbursement for a
3 telehealth consultation that is provided by a Medicaid-participating practitioner who
4 is licensed in Kentucky and that is provided in the telehealth network established in
5 KRS 11.550(3)(b).

6 (2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A
7 request for reimbursement shall not be denied solely because an in-person
8 consultation between a Medicaid-participating practitioner and a patient did
9 not occur.

10 (b) A telehealth consultation shall not be reimbursable under this section if it is
11 provided through the use of an audio-only telephone, facsimile machine, or
12 electronic mail.

13 (3) A health-care facility that receives reimbursement under this section for
14 consultations provided by a Medicaid-participating provider who practices in that
15 facility and a health professional who obtains a consultation under this section shall
16 establish quality-of-care protocols and patient confidentiality guidelines to ensure
17 that telehealth consultations meet all requirements and patient care standards as
18 required by law.

19 (4) The cabinet shall not require a telehealth consultation if an in-person consultation
20 with a Medicaid-participating provider is reasonably available where the patient
21 resides, works, or attends school or if the patient prefers an in-person consultation.

22 (5) The cabinet shall request any waivers of federal laws or regulations that may be
23 necessary to implement this section.

24 (6) (a) The cabinet and any regional managed care partnership or other entity under
25 contract with the cabinet for the administration or provision of the Medicaid
26 program shall study the impact of this section on the health care delivery
27 system in Kentucky and shall, upon implementation, issue a quarterly report to

1 the Legislative Research Commission. This report shall include an analysis of:

- 2 1. The economic impact of this section on the Medicaid budget, including
- 3 any costs or savings as a result of decreased transportation expenditures
- 4 and office or emergency room visits;
- 5 2. The quality of care as a result of telehealth consultations rendered under
- 6 this section; and
- 7 3. Any other issues deemed relevant by the cabinet.

8 (b) In addition to the analysis required under paragraph (a) of this subsection, the

9 cabinet report shall compare telehealth reimbursement and delivery among all

10 regional managed care partnerships or other entities under contract with the

11 cabinet for the administration or provision of the Medicaid program.

12 (7) The cabinet shall promulgate an administrative regulation in accordance with KRS

13 Chapter 13A to designate the claim forms, records required, and authorization

14 procedures to be followed in conjunction with this section.

15 Section 234. KRS 205.560 is amended to read as follows:

16 (1) The scope of medical care for which the Cabinet for Health and Family Services

17 undertakes to pay shall be designated and limited by regulations promulgated by the

18 cabinet, pursuant to the provisions in this section. Within the limitations of any

19 appropriation therefor, the provision of complete upper and lower dentures to

20 recipients of Medical Assistance Program benefits who have their teeth removed by

21 a dentist resulting in the total absence of teeth shall be a mandatory class in the

22 scope of medical care. Payment to a dentist of any Medical Assistance Program

23 benefits for complete upper and lower dentures shall only be provided on the

24 condition of a preauthorized agreement between an authorized representative of the

25 Medical Assistance Program and the dentist prior to the removal of the teeth. The

26 selection of another class or other classes of medical care shall be recommended by

27 the council to the secretary for health and family services after taking into

consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
- (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
- (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:
 - 1. Phenylketonuria;
 - 2. Hyperphenylalaninemia;
 - 3. Tyrosinemia (types I, II, and III);
 - 4. Maple syrup urine disease;
 - 5. A-ketoacid dehydrogenase deficiency;
 - 6. Isovaleryl-CoA dehydrogenase deficiency;
 - 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 - 8. 3-methylglutaconyl-CoA hydratase deficiency;
 - 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);

10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);
 13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;
 15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;
 20. Citrullinemia;
 21. Arginosuccinic aciduria;
 22. Methylmalonic acidemia; and
 23. Argininemia;
- (d) Physician, podiatric, and dental services;
- (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
- (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
- (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed

1 registered nurses are under the direct supervision of a licensed physician who
 2 rotates his services in this supervisory capacity between two (2) or more of the
 3 nonprofit neighborhood health organizations or clinics specified in this
 4 paragraph;

5 (h) Services provided by health-care delivery networks as defined in KRS
 6 216.900; and

7 (i) Services provided by midlevel health-care practitioners as defined in KRS
 8 216.900.

9 (2) Payments for hospital care, nursing-home care, and drugs or other medical,
 10 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount
 11 of the payment to the cost of providing the services or supplies. It shall be one (1) of
 12 the functions of the council to make recommendations to the Cabinet for Health and
 13 Family Services with respect to the bases for payment. In determining the rates of
 14 reimbursement for long-term-care facilities participating in the Medical Assistance
 15 Program, the Cabinet for Health and Family Services shall, to the extent permitted
 16 by federal law, not allow the following items to be considered as a cost to the
 17 facility for purposes of reimbursement:

18 (a) Motor vehicles that are not owned by the facility, including motor vehicles
 19 that are registered or owned by the facility but used primarily by the owner or
 20 family members thereof;

21 (b) The cost of motor vehicles, including vans or trucks, used for facility business
 22 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted
 23 annually for inflation according to the increase in the consumer price index-u
 24 for the most recent twelve (12) month period, as determined by the United
 25 States Department of Labor. Medically equipped motor vehicles, vans, or
 26 trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.
 27 Costs exceeding this limit shall not be reimbursable and shall be borne by the

1 facility. Costs for additional motor vehicles, not to exceed a total of three (3)
2 per facility, may be approved by the Cabinet for Health and Family Services
3 if the facility demonstrates that each additional vehicle is necessary for the
4 operation of the facility as required by regulations of the cabinet;

5 (c) Salaries paid to immediate family members of the owner or administrator, or
6 both, of a facility, to the extent that services are not actually performed and are
7 not a necessary function as required by regulation of the cabinet for the
8 operation of the facility. The facility shall keep a record of all work actually
9 performed by family members;

10 (d) The cost of contracts, loans, or other payments made by the facility to owners,
11 administrators, or both, unless the payments are for services which would
12 otherwise be necessary to the operation of the facility and the services are
13 required by regulations of the Cabinet for Health and Family Services. Any
14 other payments shall be deemed part of the owner's compensation in
15 accordance with maximum limits established by regulations of the Cabinet for
16 Health and Family Services. Interest paid to the facility for loans made to a
17 third party may be used to offset allowable interest claimed by the facility;

18 (e) Private club memberships for owners or administrators, travel expenses for
19 trips outside the state for owners or administrators, and other indirect
20 payments made to the owner, unless the payments are deemed part of the
21 owner's compensation in accordance with maximum limits established by
22 regulations of the Cabinet for Health and Family Services; and

23 (f) Payments made to related organizations supplying the facility with goods or
24 services shall be limited to the actual cost of the goods or services to the
25 related organization, unless it can be demonstrated that no relationship
26 between the facility and the supplier exists. A relationship shall be considered
27 to exist when an individual, including brothers, sisters, father, mother, aunts,

1 uncles, and in-laws, possesses a total of five percent (5%) or more of
2 ownership equity in the facility and the supplying business. An exception to
3 the relationship shall exist if fifty-one percent (51%) or more of the supplier's
4 business activity of the type carried on with the facility is transacted with
5 persons and organizations other than the facility and its related organizations.

6 (3) No vendor payment shall be made unless the class and type of medical care
7 rendered and the cost basis therefor has first been designated by regulation.

8 (4) The rules and regulations of the Cabinet for Health and Family Services shall
9 require that a written statement, including the required opinion of a physician, shall
10 accompany any claim for reimbursement for induced premature births. This
11 statement shall indicate the procedures used in providing the medical services.

12 (5) The range of medical care benefit standards provided and the quality and quantity
13 standards and the methods for determining cost formulae for vendor payments
14 within each category of public assistance and other recipients shall be uniform for
15 the entire state, and shall be designated by regulation promulgated within the
16 limitations established by the Social Security Act and federal regulations. It shall
17 not be necessary that the amount of payments for units of services be uniform for
18 the entire state but amounts may vary from county to county and from city to city, as
19 well as among hospitals, based on the prevailing cost of medical care in each locale
20 and other local economic and geographic conditions, except that insofar as allowed
21 by applicable federal law and regulation, the maximum amounts reimbursable for
22 similar services rendered by physicians within the same specialty of medical
23 practice shall not vary according to the physician's place of residence or place of
24 practice, as long as the place of practice is within the boundaries of the state.

25 (6) Nothing in this section shall be deemed to deprive a woman of all appropriate
26 medical care necessary to prevent her physical death.

27 (7) To the extent permitted by federal law, no medical assistance recipient shall be

1 recertified as qualifying for a level of long-term care below the recipient's current
2 level, unless the recertification includes a physical examination conducted by a
3 physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse
4 practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's
5 supervision.

6 (8) If payments made to community mental health centers, established pursuant to KRS
7 Chapter 210, for services provided to the mentally retarded exceed the actual cost of
8 providing the service, the balance of the payments shall be used solely for the
9 provision of other services to the mentally retarded through community mental
10 health centers.

11 (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to
12 recipients of medical assistance under Title XIX of the Social Security Act on July
13 15, 1986, shall deny admission of a person to a bed certified for reimbursement
14 under the provisions of the Medical Assistance Program solely on the basis of the
15 person's paying status as a Medicaid recipient. No person shall be removed or
16 discharged from any facility solely because they became eligible for participation in
17 the Medical Assistance Program, unless the facility can demonstrate the resident or
18 the resident's responsible party was fully notified in writing that the resident was
19 being admitted to a bed not certified for Medicaid reimbursement. No facility may
20 decertify a bed occupied by a Medicaid recipient or may decertify a bed that is
21 occupied by a resident who has made application for medical assistance.

22 (10) Family-practice physicians practicing in geographic areas with no more than one (1)
23 primary-care physician per five thousand (5,000) population, as reported by the
24 United States Department of Health and Human Services, shall be reimbursed one
25 hundred twenty-five percent (125%) of the standard reimbursement rate for
26 physician services.

27 (11) The Cabinet for Health and Family Services shall make payments under the

1 Medical Assistance program for services which are within the lawful scope of
2 practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the
3 Medical Assistance Program pays for the same services provided by a physician.

4 Section 235. KRS 205.5606 is amended to read as follows:

5 (1) The Cabinet for Health and Family Services shall establish the Kentucky
6 Independence Plus Through Consumer-Directed Services Program that shall
7 provide an option within each of the home and community-based services waivers.

8 The option within each of the waiver programs shall be based on the principles of
9 consumer choice and control and that shall be implemented upon federal approval,
10 if required. The program shall allow enrolled persons to assist with the design of
11 their programs and choose their providers of services and to direct the delivery of
12 services to meet their needs.

13 (2) The cabinet shall establish interagency cooperative agreements with any state
14 agency as needed to implement and administer the program.

15 (3) A person who is enrolled in a Medicaid home and community-based waiver
16 program may choose to participate in the consumer-directed services program.

17 (4) A consumer shall be allocated a monthly budget allowance based on the results of
18 his or her assessed functional needs, his or her person-centered plan, and the
19 financial resources of the program. The budget allowance shall be disbursed directly
20 from a cabinet-approved fiscal intermediary on behalf of the consumer. The cabinet
21 shall develop purchasing guidelines to assist each consumer in using the budget
22 allowance to purchase needed, cost-effective services.

23 (5) A consumer shall use the budget allowance to pay for nonresidential and
24 nonmedical home and community-based services and supports that meet the
25 consumer's needs and that constitute a cost-effective use of funds.

26 (6) A consumer shall be allowed to choose providers of services, including but not
27 limited to when and how the services are provided. A provider may include a person

1 otherwise known to the consumer, unless prohibited by federal law.

2 (7) If the consumer is the employer of record, the consumer's roles and responsibilities
3 shall include but not be limited to the following:

- 4 (a) Developing a job description;
- 5 (b) Selecting providers and submitting information for any required background
6 screening;
- 7 (c) With assistance of the cabinet or its agents, developing a person-centered plan
8 and communicating needs, preferences, and expectations about services being
9 purchased;
- 10 (d) Providing the fiscal intermediary with all information necessary for provider
11 payments and tax requirements; and
- 12 (e) Ending the employment of an unsatisfactory provider.

13 (8) If a consumer is not the employer of record, the consumer's roles and
14 responsibilities shall include but not be limited to the following:

- 15 (a) With assistance of the cabinet or its agents, developing a person-centered plan
16 and communicating needs, preferences, and expectations about services being
17 purchased;
- 18 (b) Ending the services of an unsatisfactory provider; and
- 19 (c) Providing the fiscal agent with all information necessary for provider
20 payments and tax requirements.

21 (9) The roles and responsibilities of the cabinet or its agents shall include but not be
22 limited to the following:

- 23 (a) Assessing each consumer's functional needs, helping with the development of
24 a person-centered plan, and providing ongoing assistance with the plan;
- 25 (b) Offering the services of service advisors who shall provide training, technical
26 assistance, and support to the consumer as prescribed through an
27 administrative regulation promulgated by the cabinet in accordance with KRS

- 1 Chapter 13A;
- 2 (c) Approving fiscal intermediaries; and
- 3 (d) Establishing the minimum qualifications for all providers and being the final
- 4 arbiter of the fitness of any individual to be a provider.
- 5 (10) The fiscal intermediary's roles and responsibilities shall include but not be limited
- 6 to the following:
- 7 (a) Providing recordkeeping services, including but not limited to maintaining
- 8 financial records as required through administrative regulation promulgated in
- 9 accordance with KRS Chapter 13A by the Cabinet for Health and Family
- 10 Services; and
- 11 (b) Retaining the consumer-directed funds, processing employment and tax
- 12 information, if any, reviewing records to ensure correctness, writing
- 13 paychecks to providers, and delivering paychecks.
- 14 (11) (a) Each person who provides services or supports under this section shall comply
- 15 on an annual basis with any required background screening. A person shall be
- 16 excluded from employment upon failure to meet the background screening
- 17 requirements unless otherwise exempted through an administrative regulation
- 18 promulgated by the cabinet in accordance with KRS Chapter 13A.
- 19 (b) The service advisor shall, as appropriate, complete background screening as
- 20 required by this section.
- 21 (12) For purposes of this section, a person who has undergone screening, is qualified for
- 22 employment under this section, and has not been unemployed for more than one
- 23 hundred eighty (180) days following the screening shall not be required to be
- 24 rescreened. Such person must attest under penalty of perjury to not having been
- 25 convicted of a disqualifying offense since completing the screening.
- 26 (13) To implement this section:
- 27 (a) The cabinet shall be authorized to promulgate necessary administrative

1 regulations in accordance with KRS Chapter 13A; and

2 (b) The cabinet shall take all necessary action to ensure state compliance with
3 federal regulations. The cabinet shall apply for any necessary federal waivers
4 or federal waiver amendments to implement the program within three (3)
5 months following July 13, 2004, pending availability of funding.

6 (14) The cabinet, with consumer input, shall review and assess the implementation of the
7 consumer-directed program. By January 15 of each year, the cabinet shall submit a
8 written report to the General Assembly that includes the review of the program and
9 recommendations for improvements to the program.

10 Section 236. KRS 205.5632 is amended to read as follows:

11 (1) Upon initial coverage by the Kentucky Medicaid program, a new drug shall be
12 exempt from prior authorization unless:

13 (a) There has been a review of the drug and recommendation regarding prior
14 authorization by the Pharmacy and Therapeutics Advisory Committee as
15 provided under KRS 205.564 and a final determination regarding prior
16 authorization by the secretary of the Cabinet for Health and Family Services;
17 or

18 (b) The drug is in a specific class of drugs for which the Pharmacy and
19 Therapeutics Advisory Committee has recommended, and the secretary of
20 health and family services has determined, that all new drugs shall require
21 prior authorization upon initial availability, in which case the drug shall
22 require prior authorization and shall be scheduled for review by the Pharmacy
23 and Therapeutics Advisory Committee within seventy-five (75) days.

24 (2) The Cabinet for Health and Family Services shall promulgate an administrative
25 regulation in accordance with KRS Chapter 13A that describes the process by
26 which drugs under this section shall be determined to require prior authorization.

27 Section 237. KRS 205.5634 is amended to read as follows:

1 (1) The Drug Management Review Advisory Board shall coordinate the use of
2 utilization data to identify appropriate use of pharmaceuticals and determine any
3 need for educational interventions. Prospective drug utilization review and
4 retrospective drug utilization review measures shall be utilized to monitor the
5 success of the interventions. Interventions shall be evaluated for a period of not less
6 than six (6) months.

7 (2) Implementation and performance of the duties of this section and KRS 205.5631,
8 205.5632, and 205.5636 and any drug review shall be performed by the staff of the
9 Cabinet for Health and Family Services, or its contractors.

10 Section 238. KRS 205.5636 is amended to read as follows:

11 (1) A Drug Management Review Advisory Board is hereby established and attached to
12 the Cabinet for Health and Family Services for administrative purposes. The board
13 shall consist of sixteen (16) members to be appointed by the secretary of the
14 Cabinet for Health and Family Services and shall be constituted as follows:

15 (a) Five (5) members shall be physicians, one (1) each from the fields of family
16 medicine, internal medicine, pediatrics, and geriatrics. The fifth physician
17 appointed shall be from any other recognized field of medicine. Two (2) of the
18 above indicated physicians shall be representatives of the two (2) current
19 medical schools in the Commonwealth, the University of Kentucky and the
20 University of Louisville Schools of Medicine;

21 (b) Five (5) members shall be pharmacists, at least one (1) of whom shall be
22 designated as the representative of the University of Kentucky College of
23 Pharmacy;

24 (c) Two (2) members shall be advanced registered nurse practitioners;

25 (d) One (1) member shall be an optometrist and one (1) member shall be a
26 physician's assistant;

27 (e) One (1) member shall be a representative of the Cabinet for Health and

1 **Family** Services designated to serve on an ex officio basis; and

2 (f) One (1) nonvoting member shall be a member of the pharmaceutical
3 manufacturing industry.

4 (2) (a) The physician members of the board shall be appointed from a list of three (3)
5 qualified physicians for each vacancy submitted by the Kentucky Medical
6 Association.

7 (b) The pharmacist members of the board shall be appointed from a list of three
8 (3) qualified pharmacists for each vacancy submitted by the Kentucky
9 Pharmacy Association.

10 (c) The advanced registered nurse practitioner members of the board shall be
11 appointed from a list of three (3) for each vacancy, submitted by the Kentucky
12 Nurses Association.

13 (d) The optometrist shall be appointed from a list of three (3) qualified
14 optometrists submitted by the Kentucky Optometric Association.

15 (e) The physician's assistant shall be appointed from a list of three (3) qualified
16 physicians assistants submitted by the Kentucky Board of Medical Licensure.

17 (3) The secretary may appoint one (1) nonvoting industry representative to be selected
18 from a list of three (3) members nominated from the Pharmaceutical Research and
19 Manufacturers of America. The secretary may request additional names for
20 appointments and current members may be considered for reappointment. All
21 members of the board shall be licensed and actively practicing in their respective
22 professions in the Commonwealth and shall have knowledge or expertise in at least
23 one (1) of the following areas:

24 (a) The clinically appropriate prescribing, utilization, and evaluation of
25 pharmaceuticals;

26 (b) The clinically appropriate dispensing and monitoring of pharmaceuticals;

27 (c) Drug utilization review, pharmacoeconomic and pharmacoepidemiological

1 evaluation and intervention, pharmacotherapeutic intervention methods in
2 disease management using treatment algorithms, critical paths, and other
3 measures that have been well defined and validated; and

4 (d) Medical quality assurance.

5 (4) Three (3) of the initially appointed physician members, three (3) of the initially
6 appointed pharmacist members, and one (1) of the initially appointed advanced
7 registered nurse practitioners shall be appointed for a term of one (1) year. The
8 remaining initial members shall be appointed for a term of two (2) years.
9 Subsequent appointments shall be for a term of two (2) years. Members shall serve
10 for no more than three (3) consecutive terms. The board shall designate a chair and
11 vice chair. A member shall serve no more than two (2) consecutive terms as chair.

12 (5) The first meeting of the board shall take place within thirty (30) days of the
13 appointment of all the members of the board.

14 (6) The board shall meet at least quarterly, or upon the call of the chair or the
15 commissioner. A majority of the voting members of the board shall constitute a
16 quorum. All meetings shall be conducted in accordance with the provisions of the
17 Open Meetings Act, KRS 61.805 to 61.850, and all balloting shall take place by roll
18 call vote.

19 (7) Actions of the board shall require a majority vote of the members present or
20 participating through distance communication technology. No member may vote on
21 a matter where a conflict of interest may exist. The chair may vote on any matter
22 before the board unless a conflict of interest exists.

23 Section 239. KRS 205.5638 is amended to read as follows:

24 (1) The Drug Management Review Advisory Board shall have at least the following
25 duties and responsibilities:

26 (a) Review and make recommendations to the commissioner or designee on
27 predetermined prospective drug use review standards submitted to the board

- 1 by the Department for Medicaid Services or its contractor;
- 2 (b) Evaluate the use of the predetermined prospective drug use review standards
3 and make recommendations to the commissioner or the commissioner's
4 designee concerning modification or elimination of existing standards and the
5 need for additional standards;
- 6 (c) Make recommendations to the commissioner or the commissioner's designee
7 concerning guidelines governing written predetermined standards that
8 pharmacies must use in conducting prospective drug use review if they do not
9 use approved software;
- 10 (d) Oversee the retrospective drug use review contract and incorporate the results
11 into predetermined retrospective drug use review standards;
- 12 (e) Review and make recommendations to the commissioner or the
13 commissioner's designee on predetermined retrospective drug use standards
14 submitted to the board by the Department for Medicaid Services;
- 15 (f) Make recommendations to the commissioner or the commissioner's designee
16 concerning the modification or elimination of existing predetermined
17 retrospective drug use review standards and the need for additional standards;
- 18 (g) Identify and develop educational topics on common drug therapy problems if
19 needed to improve prescribing or dispensing practices of practitioners;
- 20 (h) Make recommendations to the commissioner or the commissioner's designee
21 concerning which mix of interventions would most effectively lead to an
22 improvement in the quality of drug therapy;
- 23 (i) Conduct periodic reevaluations to determine the effectiveness of educational
24 effort and, if necessary, modify the interventions;
- 25 (j) Recommend standards for the identification of suspected fraud and abuse;
- 26 (k) Prepare and submit to the commissioner an annual drug use review report that
27 contains the following information:

- 1 1. A description of the nature and scope of the retrospective drug
2 utilization program including the identity of the contractor, the
3 frequency of screening of claims data and the criteria and standards
4 used, along with new or revised copies of the clinical criteria, and in
5 subsequent years, a list of revised criteria and deleted criteria;
- 6 2. A summary of nonpatient and provider specific educational activities
7 including information on the use of each type of patient and provider
8 specific intervention that indicates the guidelines for use and frequency
9 of use by type of intervention and the effectiveness of each type of
10 intervention on changes in prescribing or dispensing practices;
- 11 3. An evaluation of the adequacy of prospective drug use review database
12 software; and
- 13 4. Details on policy guidelines adopted by the board pertaining to written
14 criteria that pharmacies may use if they do not use a computer
15 prospective drug utilization review database; and
- 16 (1) In advising the department, the board may consider the effectiveness of all
17 interventions used to manage a particular disease over time, the stage and
18 intensity of the disease, and the economic, clinical, and patient-prospective
19 outcomes, including quality of life.
- 20 (2) The board shall function in accordance with the Kentucky Open Meetings Law and
21 the Kentucky Open Records Act. The board may designate subcommittees to
22 address specific issues and to report findings to the board. In conducting its
23 business, the board shall utilize distance communication technologies whenever
24 possible.
- 25 (3) Clerical and administrative support shall be provided the board through the Cabinet
26 for Health and Family Services or by contract.
- 27 Section 240. KRS 205.5639 is amended to read as follows:

- 1 (1) Any recommendation by the board is advisory to the commissioner.
- 2 (2) Any interested party may request an opportunity to make a presentation or argument
3 to the board on any item under consideration by the board. The Cabinet for Health
4 and Family Services shall, by administrative regulation promulgated in accordance
5 with KRS Chapter 13A, establish requirements for presentations before the board.
- 6 (3) Any interested party who is aggrieved by a recommendation of the board to the
7 commissioner or his designee may submit written exceptions consisting of only new
8 information that was not available to be presented at the time of the board's
9 consideration of the matter. These written exceptions shall be submitted within ten
10 (10) days of the recommendation. After the time for filing exceptions has expired,
11 the commissioner or the commissioner's designee shall consider all exceptions filed
12 in a timely manner prior to acting upon the recommendation of the board. If the
13 deadline for filing written exceptions falls on a Saturday, Sunday, or a state holiday,
14 the exceptions may be filed the following day.
- 15 (4) In making a final decision on any recommendation of the board, the commissioner
16 may seek additional and clarifying information from any source. Any additional
17 information submitted to the commissioner shall be made a part of the
18 administrative record supporting the final decision.
- 19 (5) An appeal from a decision of the commissioner may be made in accordance with
20 KRS Chapter 13B by a manufacturer of the product. Unless held in abeyance or
21 otherwise addressed by the hearing officer, the decision of the commissioner stands
22 until final disposition of the issue.
- 23 Section 241. KRS 205.564 is amended to read as follows:
- 24 (1) The Pharmacy and Therapeutics Advisory Committee is established and attached to
25 the Department for Medicaid Services for administrative purposes.
- 26 (2) The committee shall have fourteen (14) members, as follows:
- 27 (a) Twelve (12) voting members who shall be physicians currently participating

1 in the Medicaid program who may legally prescribe a broad range of
 2 scheduled and nonscheduled drugs, as categorized by the U.S. Drug
 3 Enforcement Administration, or pharmacists who dispense prescriptions to
 4 Medicaid recipients, as follows:

- 5 1. Three (3) licensed, practicing family practice physicians;
- 6 2. Two (2) licensed, practicing physicians who are pediatricians;
- 7 3. One (1) licensed, practicing physician who is an
 8 obstetrician/gynecologist or gynecologist;
- 9 4. One (1) licensed, practicing internal medicine physician who is a
 10 primary care provider;
- 11 5. One (1) licensed, practicing physician from any medical specialty;
- 12 6. One (1) licensed, practicing physician who is a psychiatrist; and
- 13 7. Three (3) licensed, practicing pharmacists; and

14 (b) Two (2) nonvoting members, as follows:

- 15 1. The medical director of the department; and
- 16 2. A representative of the department's pharmacy program, as designated
 17 by the commissioner.

18 (3) One (1) voting committee member shall be appointed, and may be reappointed, by
 19 the Governor from a list of three (3) nominees received from the President of the
 20 Senate, and one (1) voting committee member shall be appointed, and may be
 21 reappointed, by the Governor from a list of three (3) nominees received from the
 22 Speaker of the House of Representatives. The remaining ten (10) voting committee
 23 members shall be appointed, and may be reappointed, by the Governor from a list of
 24 nominees submitted by the department. Terms of the voting committee members
 25 shall be three (3) years with no members serving more than two (2) consecutive
 26 terms.

27 (4) The Pharmacy and Therapeutics Advisory Committee shall:

- 1 (a) Act in an advisory capacity to the Governor, the secretary of the Cabinet for
2 Health and Family Services, and the Medicaid commissioner on the
3 development and administration of an outpatient drug formulary;
- 4 (b) Perform drug reviews and make recommendations to the secretary regarding
5 specific drugs or drug classes to be placed on prior authorization or otherwise
6 restricted, as determined through a process established by the cabinet;
- 7 (c) Provide for an appeals process to be utilized by a person or entity that
8 disagrees with recommendations of the committee;
- 9 (d) Establish bylaws or rules for the conduct of committee meetings; and
- 10 (e) Function in accordance with the Kentucky Open Meetings Law and the
11 Kentucky Open Records Law.
- 12 (5) Voting members of the committee shall elect a chair and vice chair by majority
13 vote. A quorum shall consist of seven (7) voting members of the committee.
- 14 (6) The committee shall meet every other month for a total of at least six (6) times per
15 year or upon the call of the chair, the secretary of the Cabinet for Health and
16 Family Services, or the Governor. The Department for Medicaid Services shall post
17 the agenda on its Web site no later than fourteen (14) days prior to the date of a
18 regularly scheduled meeting and no later than seventy-two (72) hours prior to the
19 date of a specially called meeting. Options, including any recommendations, by the
20 department for drug review or drug review placement shall be posted on the
21 department's Web site no later than seven (7) days prior to the date of the next
22 regularly scheduled meeting and as soon as practicable prior to the date of the next
23 specially called meeting.
- 24 (7) Members of the committee shall receive no compensation for service, but shall
25 receive necessary and actual travel expenses associated with attending meetings.
- 26 (8) Any recommendation of the committee to the secretary of the Cabinet for Health
27 and Family Services shall be posted to the Web site of the Department for

1 Medicaid Services within seven (7) days of the date of the meeting at which the
2 recommendation was made.

3 (9) A recommendation of the committee shall be submitted to the secretary for a final
4 determination. If the secretary does not accept the recommendation of the
5 committee, the secretary shall present the basis for the final determination at the
6 next scheduled meeting of the committee. The secretary shall act on the committee's
7 recommendation within thirty (30) days of the date that the recommendation was
8 posted on the Web site.

9 (10) Any interested party may request and may be permitted to make a presentation to
10 the board on any item under consideration by the board. The Cabinet for Health and
11 Family Services shall, by administrative regulation promulgated under KRS
12 Chapter 13A, establish requirements for any presentation made to the board.

13 (11) The secretary's final determination shall be posted on the Web site of the
14 Department for Medicaid Services.

15 (12) Any appeal from a decision of the secretary shall be made in accordance with KRS
16 Chapter 13B, except that the time for filing an appeal shall be within thirty (30)
17 days of the date of the posting of the secretary's final determination on the Web site
18 of the Department for Medicaid Services.

19 (13) The Cabinet for Health and Family Services shall promulgate an administrative
20 regulation in accordance with KRS Chapter 13A to implement the provisions of this
21 section.

22 Section 242. KRS 205.565 is amended to read as follows:

23 (1) For the purposes of this section, a "pediatric teaching hospital" is defined as an
24 acute-care hospital as licensed under KRS Chapter 216B and which has designated
25 and operates no less than one hundred fifty (150) beds for pediatric services and
26 which is either operated by one (1) of the Commonwealth's schools of medicine and
27 which has a pediatric teaching program or which has an affiliation agreement for

1 pediatric services, teaching, and research with a school of medicine for the
2 Commonwealth.

- 3 (2) For purposes of inpatient hospital reimbursement under the Kentucky Medical
4 Assistance Program, the Cabinet for Health and Family Services shall recognize
5 the unique costs of any pediatric teaching hospital.

6 Section 243. KRS 205.594 is amended to read as follows:

7 As used in KRS 205.593 to 205.598, the term "insurer" includes a group health plan, as
8 defined in Section 607(1) of the Employment Retirement Income Security Act of 1974, a
9 health maintenance organization, and an entity offering a health service benefit plan.

- 10 (1) Health insurers shall be prohibited from denying enrollment of a child under the
11 health coverage of the child's parent on the grounds that:

- 12 (a) The child was born out of wedlock;
13 (b) The child is not claimed as a dependent on the parent's federal income tax
14 return; or
15 (c) The child does not reside with the parent or in the health insurer's area.

- 16 (2) If a parent is required by a court or administrative order to provide health coverage
17 for a child and the parent is eligible for family health coverage through an insurer,
18 the insurer shall be required:

- 19 (a) To permit the parent to enroll under the family coverage any child who is
20 otherwise eligible for the coverage without regard to any enrollment season
21 restrictions;
22 (b) If a parent is enrolled but fails to make application to obtain coverage for the
23 child, to enroll the child under family coverage upon application by the child's
24 other parent, custodial parent, or by the Cabinet for Health and Family
25 Services~~[Families and Children]~~; and

- 26 (c) Not to disenroll, or eliminate coverage of, a child unless the insurer is
27 provided satisfactory written evidence that:

- 1 1. A court or administrative order requiring coverage of the child is no
- 2 longer in effect; or
- 3 2. The child is or will be enrolled in comparable health coverage through
- 4 another insurer which will take effect not later than the effective date of
- 5 the disenrollment.

6 Section 244. KRS 205.595 is amended to read as follows:

7 If a parent is required by a court or administrative order to provide health coverage for a
 8 child and the parent is eligible for family health coverage through an employer doing
 9 business in the Commonwealth, the employer is required:

- 10 (1) To permit the parent to enroll under family coverage any child who is otherwise
- 11 eligible for the coverage, without regard to any enrollment season restrictions;
- 12 (2) In the case where the noncustodial parent provides health care coverage and
- 13 changes employment, to accept a notice of transfer of the provision to enroll from
- 14 the Cabinet for *Health and Family Services*~~[Families and Children]~~, the custodial
- 15 parent or the noncustodial parent, and to enroll the child in the noncustodial parent's
- 16 health care coverage, unless the noncustodial parent contests the notice pursuant to
- 17 KRS Chapter 13B;
- 18 (3) If a parent is enrolled but fails to make application to obtain coverage for the child,
- 19 to enroll the child under family coverage upon application by the child's other
- 20 parent, custodial parent, or by the Cabinet for *Health and Family Services*~~[Families~~
- 21 ~~and Children]~~;
- 22 (4) Not to disenroll or eliminate coverage of a child unless:
- 23 (a) The employer is provided satisfactory written evidence that a court or
- 24 administrative order requiring coverage of the child is no longer in effect, or
- 25 that the child is or will be enrolled in comparable health coverage which will
- 26 take effect no later than the effective date of the disenrollment; or
- 27 (b) The employer has eliminated family health coverage for all of its employees;

1 and

2 (5) To withhold from the employee's compensation the employee's share, if any, of
3 premiums for health coverage, except that the amount withheld may not exceed the
4 maximum amount permitted to be withheld under Section 303(b) of the Federal
5 Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

6 Section 245. KRS 205.598 is amended to read as follows:

7 (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall withhold
8 the wages, salary, or other employment income of, and require withholding amounts
9 from state tax refunds to, any person who:

10 (a) Is required by court or administrative order to provide coverage of the costs of
11 health services to a child who is eligible for medical assistance;

12 (b) Has received payment from a third party for the costs of the services for the
13 child; but

14 (c) Has not used these payments to reimburse either the other parent or guardian
15 of the child, or the provider of the services.

16 (2) Any claims for current or past-due child support income shall take priority over the
17 claims for the costs of reimbursing the Medical Assistance Program for child
18 medical support.

19 Section 246. KRS 205.623 is amended to read as follows:

20 (1) All insurance companies licensed under KRS Chapter 304 shall provide upon
21 request to the Cabinet for Health **and Family** Services, by electronic means and in
22 the format prescribed by the cabinet, coverage information and claims paid data on
23 Medicaid-eligible policyholders and dependents. The data obtained on Medicaid
24 eligibles shall be used by the cabinet to determine the availability of other medical
25 benefits in order to ascertain Medicaid is the payor of last resort.

26 (2) All information obtained by the cabinet pursuant to this section shall be confidential
27 and shall not be open for public inspection.

1 Section 247. KRS 205.624 is amended to read as follows:

2 (1) An applicant or recipient shall be deemed to have made to the cabinet an
3 assignment of his rights to third-party payments to the extent of medical assistance
4 paid on behalf of the recipient under Title XIX of the Social Security Act. The
5 applicant or recipient shall be informed in writing by the cabinet of such
6 assignment.

7 (2) The cabinet shall have the right of recovery which a recipient may have for the cost
8 of hospitalization, pharmaceutical services, physician services, nursing services, and
9 other medical services not to exceed the amount of funds expended by the cabinet
10 for such care and treatment of the recipient under the provisions of Title XIX of the
11 Social Security Act.

12 (a) If a payment for medical assistance is made, the cabinet, to enforce its right,
13 may:

- 14 1. Intervene or join in an action or proceeding brought by the injured,
15 diseased, or disabled person, the person's guardian, personal
16 representative, estate, dependents, or survivors against a third party who
17 may be liable for the injury, disease, or disability, or against contractors,
18 public or private, who may be liable to pay or provide medical care and
19 services rendered to an injured, diseased, or disabled recipient, in state
20 or federal court; or
- 21 2. Institute and prosecute legal proceedings against a third party who may
22 be liable for the injury, disease, or disability, or against contractors,
23 public or private, who may be liable to pay or provide medical care and
24 services rendered to an injured, diseased, or disabled recipient, in state
25 or federal court, either alone or in conjunction with the injured, diseased,
26 or disabled person, the person's guardian, personal representative, estate,
27 dependents, or survivors; or

1 3. Institute the proceedings in its own name or in the name of the injured,
2 diseased, or disabled person, the person's guardian, personal
3 representative, estate, dependents, or survivors.

4 (b) The injured, diseased, or disabled person may proceed in his own name,
5 collecting costs without the necessity of joining the cabinet or the
6 Commonwealth as a named party, provided the injured, diseased, or disabled
7 person shall notify the cabinet of the action or proceeding entered into upon
8 commencement of the action or proceeding. The injured, diseased, or disabled
9 person must notify the cabinet of any settlement or judgment of his or her
10 claim.

11 (c) In the case of an applicant for or recipient of medical assistance whose
12 eligibility is based on deprivation of parental care or support due to absence of
13 a parent from the home, the cabinet may:

14 1. Initiate a civil action or other legal proceedings to secure repayment of
15 medical assistance expenditures for which the absent parent is liable;
16 and

17 2. Provide for the payment of reasonable administrative costs incurred by
18 such other state or county agency requested by the cabinet to assist in the
19 enforcement of securing repayment from the absent parent.

20 (3) Each insurer issuing policies or contracts under Subtitle 17, 18, 32, or 38 of KRS
21 Chapter 304 shall cooperate fully with the Cabinet for Health **and Family** Services
22 or an authorized designee of the cabinet in order for the cabinet to comply with the
23 provisions of subsection (1) of this section.

24 Section 248. KRS 205.6310 is amended to read as follows:

25 The Cabinet for Health **and Family** Services shall establish a system within the Medical
26 Assistance Program to reduce unnecessary hospital emergency room utilization and costs
27 by redefining and controlling hospital emergency utilization. The cabinet shall establish

1 by promulgation of administrative regulations, pursuant to KRS Chapter 13A, the
2 following:

- 3 (1) Criteria and procedures, at least annually updated, that differentiate children and
4 adults, and which conform to the Federal Emergency Medical Treatment and Active
5 Labor Act (42 U.S.C. sec. 1395dd), as amended, and any other applicable federal
6 law or regulation for determining if a medical emergency exists;
- 7 (2) Reimbursement rates that provide for nominal reimbursement of emergency room
8 care for care that does not meet the criteria established for a medical emergency;
- 9 (3) Reimbursement, at rates determined by the cabinet, for ancillary services which,
10 based upon the symptoms of the patient, are medically appropriate to determine if a
11 medical emergency exists;
- 12 (4) Except for emergency room services rendered to children under the age of six (6),
13 prohibition of reimbursement at hospital emergency room rates for diagnosis and
14 treatment for a condition that does not meet the criteria established for a medical
15 emergency; and
- 16 (5) The provisions of this section shall apply to any managed care program for
17 Medicaid recipients.

18 The cabinet or its designated peer review organization shall review all claims for payment
19 of nonemergency hospital care and deny payment for any ancillary services determined as
20 not medically appropriate.

21 Section 249. KRS 205.6314 is amended to read as follows:

22 The Cabinet for Health and Family Services shall review the Medical Assistance
23 Program reimbursement rates for emergency transportation providers to determine if
24 existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by
25 promulgation of administrative regulation, pursuant to KRS Chapter 13A, do the
26 following:

- 27 (1) Prescribe reimbursement rates for emergency transportation providers to ensure that

1 emergency rates are paid only for transporting medical assistance recipients to the
2 emergency room of a hospital in emergency situations;

3 (2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for
4 emergency transportation providers for the transportation of stretcher patients from
5 nursing homes to physician offices or hospitals; and

6 (3) Establish a verification system that requires medical providers to confirm that
7 medical assistance recipients have appointments for medical services and that
8 medical services were medically necessary and were obtained prior to payment by
9 the cabinet to the emergency transportation provider.

10 Section 250. KRS 205.6316 is amended to read as follows:

11 The Cabinet for Health and Family Services shall review the procedures for medical
12 assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by
13 promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the
14 following:

15 (1) Point-of-sale computer technology, with integration of data at the physician's office
16 and the pharmacy, that will permit prospective drug utilization review;

17 (2) Usage parameters by drug class to enable medical necessity and appropriateness
18 reviews to be conducted prior to payment;

19 (3) A dialog among the Department for Medicaid Services, the Kentucky Medical
20 Board of Licensure, and the Kentucky Board of Pharmacy, to develop
21 recommendations for legislation for the 1996 Regular Session of the General
22 Assembly that will strengthen the generic substitution laws for prescription
23 medication; and

24 (4) A dispensing fee for each prescription.

25 Section 251. KRS 205.6318 is amended to read as follows:

26 The Cabinet for Health and Family Services shall review the available technology
27 associated with the medical assistance system to determine which technology is best

1 suited to enhance program service operation, monitoring ability, and fraud and abuse
2 detection. This shall include the ability to provide on-line access to data files to allow
3 cross-analysis of provider and recipient utilization patterns. The cabinet shall by
4 promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an
5 integrated system to enhance program integrity, using a combination of staff, computer
6 technology, and contractual services to identify potential fraud, abuse, and misutilization
7 of services. This system shall:

- 8 (1) Utilize statisticians, program specialists, accountants, nurses, and other medical
9 specialists to review the Medical Assistance Program to identify patterns of
10 provider and recipient behavior that contributes to unnecessary or abusive use of
11 program services;
- 12 (2) Utilize computer capability through contractual services or the purchase of
13 computer software to detect the unbundling of claims and other techniques used by
14 providers to enhance reimbursement;
- 15 (3) Impose utilization controls on the expenditures in respiratory, physical, speech, and
16 occupational therapy and durable medical equipment provided to nursing-home
17 residents, through the use of established medical criteria or preauthorization of
18 ancillary therapies;
- 19 (4) Establish state audit and edit requirements that exceed the federal audit and edit
20 requirements;
- 21 (5) Obtain access to necessary data from the fiscal agent of each medical provider;
- 22 (6) Review the efficiency and effectiveness of the fraud and abuse detection and
23 investigation process to determine whether changes shall be made;
- 24 (7) Direct that fraud and abuse detection and investigation components shall be active
25 in initiating investigations. The fraud and abuse detection, investigation, and
26 prosecution functions shall be integrated, with access to information in files
27 maintained by the Department for Community Based Services and the Department

1 for Medicaid Services;

2 (8) Review penalties for deterrent value for medical providers that are found to have
3 abused Medicaid regulations and statutes; and

4 (9) Provide for a proactive effort to reduce costs for institutionalized program
5 participants. Program officials shall seek to implement innovative or experimental
6 demonstration programs that aim to control costs.

7 Section 252. KRS 205.6320 is amended to read as follows:

8 (1) The Cabinet for Health and Family Services shall seek to strengthen the managed
9 care component of the KenPAC Program. The cabinet shall by promulgation of
10 administrative regulation, pursuant to KRS Chapter 13A, establish the following:

11 (a) Inclusion of noninstitutionalized blind, aged, and disabled recipients in an
12 effort to reduce inappropriate usage as permitted by federal Medicaid
13 regulations;

14 (b) Financial incentives for KenPAC physicians who effectively manage the care
15 of their patients. These incentives may include an increase in the case
16 management fee for demonstrated effective case management, or through
17 other arrangements that encourage the effective and efficient management of
18 patients. Clear and concise administrative regulations promulgated under KRS
19 Chapter 13A shall be established by the cabinet to determine physician
20 qualification for the incentives;

21 (c) A pilot project to establish an oversight and education program in the
22 KenPAC system to assist with patient education regarding the appropriate and
23 effective use of the system and to assist providers with more efficient
24 management of patients;

25 (d) Criteria to avoid duplication of the provision of early and periodic screening,
26 diagnosis, and treatment-type services to children in the KenPAC Program;

27 (e) A review of the feasibility of a demonstration project to allow health

1 maintenance organizations to bid on the provision of services to KenPAC
2 participants;

3 (f) Extension of KenPAC to all counties within the state. The cabinet shall
4 determine the feasibility of working with state-supported medical schools to
5 obtain physicians in the counties where KenPAC does not operate; and

6 (g) More stringent reporting and verification requirements in contracts with
7 KenPAC physicians regarding verification of services provided to KenPAC
8 patients.

9 (2) The secretary shall promulgate by administrative regulation standards for access and
10 quality which any health maintenance organizations serving Medicaid recipients
11 shall meet. The secretary shall not provide Medicaid services through a health
12 maintenance organization which does not demonstrate the capacity to meet the
13 standards. The standards shall address at least the following subjects:

14 (a) Access to care including patient to physician ratios, availability of appropriate
15 specialists, distance to care, travel and waiting times, and physical and
16 language barriers;

17 (b) Internal and external methods for monitoring quality of care;

18 (c) Data collection and reporting, including provision of data on utilization,
19 outcomes, enrollee satisfaction, and the number, type, and resolution of
20 grievances and complaints, with subpopulation data for at-risk populations;

21 (d) Due-process procedures including written notice of appeal rights, timelines for
22 resolution of complaints, and expedited appeals processes;

23 (e) Consumer representation and patient advocacy; and

24 (f) Marketing practices including prohibited practices and standards for
25 advertisements and printed marketing materials.

26 Section 253. KRS 205.6322 is amended to read as follows:

27 The Cabinet for Health and Family Services shall seek to prohibit the sheltering of assets

1 in medical assistance long-term-care cases by promulgation of administrative regulations,
2 pursuant to KRS Chapter 13A, that establish the following:

- 3 (1) Consideration of assets placed in Medicaid-qualifying trusts as a prohibited transfer
4 of resources, to the extent prohibited by federal law;
- 5 (2) Revision of Medicaid policy to provide that assets funding the purchase of an
6 annuity shall be treated as a transfer of resources unless the annuity is actuarially
7 sound as defined in administrative regulations promulgated by the cabinet pursuant
8 to KRS Chapter 13A;
- 9 (3) Revision of Medicaid policy to treat income-producing property as an available
10 resource to the extent allowed by federal law;
- 11 (4) Review of Medicaid eligibility procedures and operation to improve eligibility
12 verification and detection of fraud and abuse; and
- 13 (5) Review of the feasibility of instituting a photographic identification card, possibly
14 in conjunction with other entitlement programs, to reduce fraud and abuse through
15 misuse of Medicaid identification cards.

16 Section 254. KRS 205.6324 is amended to read as follows:

17 The Cabinet for Health and Family Services shall by promulgation of administrative
18 regulations enhance third-party resource collection capacity in Medicaid cases through
19 utilization of in-house personnel and selective contracting for high-volume or high-
20 technological services.

21 Section 255. KRS 205.6326 is amended to read as follows:

22 The Cabinet for Health and Family Services shall review all medical assistance
23 reimbursement systems for appropriateness and cost-effectiveness. The review shall
24 include:

- 25 (1) Review of cost-based reimbursement policies for hospitals and nursing homes to
26 determine the effectiveness and appropriateness of alternate systems. Consideration
27 shall be given to the use of modified diagnostic-related groups and resource

- 1 utilization groups systems, using capitated payment methods; and
- 2 (2) Review of reimbursement rates for physicians to determine whether savings or cost
- 3 containment would be better achieved through using a relative-based resource value
- 4 scale system, a capitated payment method, or other alternative methods of
- 5 reimbursement; and
- 6 (3) For all Medicaid-covered long-term-care services, implementation of a standardized
- 7 patient assessment tool and consistent quality-of-care mandates.

8 Section 256. KRS 205.6334 is amended to read as follows:

9 The Cabinet for Health and Family Services shall request any waivers of federal law that

10 are necessary to implement the provisions of KRS 205.6310 to 205.6332.

11 Section 257. KRS 205.637 is amended to read as follows:

- 12 (1) (a) A county-owned or operated hospital shall receive an enhanced Medicaid
- 13 payment in an amount, calculated from the most recent cost report filed by
- 14 that hospital with the department as of June 30 of each year, equal to the
- 15 difference between the amount of total payments made to the hospital by the
- 16 department or a managed care entity for covered services provided to
- 17 Medicaid beneficiaries, including services attributable to recipients in
- 18 Medicaid managed care programs, during the state fiscal year and the
- 19 hospital's cost for the services determined by the department under Medicare
- 20 payment principles. Reimbursement under this section shall be made in a
- 21 single payment. From July 1 through August 1 of each year, the Department
- 22 for Medicaid Services shall calculate the payment due to be made to each
- 23 county-owned or operated hospital and shall make the payment to each
- 24 hospital no later than August 15 of each state fiscal year. The department shall
- 25 make an enhanced payment to each county-owned or operated hospital in state
- 26 fiscal year 1998 using cost reports filed with the department on or before June
- 27 30, 1998, for the hospitals' latest fiscal year.

1 (b) A payment described in this section is not due to a county-owned or operated
2 hospital unless an intergovernmental transfer is made. A county-owned or
3 operated hospital may make an intergovernmental transfer, or an
4 intergovernmental transfer may be made on behalf of the hospital by a county,
5 budget unit of a county governmental agency, or lending institution if it is not
6 prohibited by state or federal law.

7 (c) An intergovernmental transfer shall be made to the enhanced Medicaid
8 payment fund by August 2 of each state fiscal year in an amount equal to
9 eighty percent (80%) of the amount determined under paragraph (a) of this
10 subsection and shall be matched with federal funds.

11 (d) An enhanced Medicaid payment shall be made to each county-owned or
12 operated hospital participating in the intergovernmental transfer program in an
13 amount equal to one hundred percent (100%) of the hospital's Medicaid
14 shortfall as determined under paragraph (a) of this subsection.

15 (e) The department shall determine the Medicaid shortfall for all other hospitals
16 that are not county-owned or operated or are not state-university-owned or
17 operated hospitals, which shall be equal to the difference between total
18 payments made by the department or a managed care entity for covered
19 services provided to Medicaid beneficiaries, including those enrolled in
20 managed care, during the state fiscal year and the hospital's costs for the
21 services as determined by the department under Medicare payment principles.
22 Funds remaining from the enhanced Medicaid program shall be distributed to
23 each hospital which is not county-owned or operated or is not state-university-
24 owned or operated on a pro rata basis. If funds remain in the enhanced
25 Medicaid payment fund after making enhanced Medicaid payments required
26 by this subsection, the remaining funds shall be available for use by the
27 department for funding the regular Medicaid program.

1 (2) The enhanced Medicaid payment authorized under subsection (1) of this section
 2 shall not be implemented as part of the disproportionate share hospital program or if
 3 federal financial participation is not available.

4 (3) The Cabinet for Health and Family Services shall promulgate administrative
 5 regulations to implement the provisions of this section.

6 Section 258. KRS 205.640 is amended to read as follows:

7 (1) The commissioner of Medicaid services shall adopt a disproportionate share
 8 program consistent with the requirements of Title XIX of the Social Security Act
 9 which shall include to the extent possible, but not limited to, the provisions of this
 10 section.

11 (2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in
 12 the State Treasury and all provider tax revenues collected pursuant to KRS 142.301
 13 to 142.359 shall be deposited in the State Treasury and transferred on a quarterly
 14 basis to the Department for Medicaid Services for use as specified in this section.
 15 All investment earnings of the fund shall be credited to the fund. Provider tax
 16 revenues collected in accordance with KRS 142.301 to 142.359 shall be used to
 17 fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical
 18 assistance-related general fund appropriations for fiscal year 1994 and subsequent
 19 fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART
 20 fund shall be exempt from any state budget reduction acts.

21 (3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter,
 22 provider tax revenues and state and federal matching funds shall be used to
 23 fund the disproportionate share program established by the commissioner of
 24 Medicaid services. Disproportionate share funds shall be divided into three (3)
 25 pools for distribution as follows:

26 1. Forty-three and ninety-two hundredths percent (43.92%) of the total
 27 disproportionate share funds shall be allocated to acute care hospitals;

2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and

3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

(b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, and university hospitals qualifying for the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health and Family Services in accordance with this section.

(c) An individual hospital shall receive distributions for indigent care provided by that hospital that meets the guidelines established in paragraph (a) of this subsection.

(d) Distributions to acute care and private psychiatric hospitals shall be made as follows:

1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each

1 respective pool. For purposes of this paragraph, "indigent care costs"
2 means the hospital's inpatient and outpatient care as reported to the
3 department multiplied by the hospital's Medicaid rate, or at a rate
4 determined by the department in administrative regulation that, when
5 multiplied by the hospital's reported indigent care, is equivalent to the
6 amount that would be payable by the department under the fee-for-
7 service Medicaid program for the hospital's total reported indigent care.

8 2. Each hospital's annual distribution shall be calculated by multiplying the
9 hospital's indigent care factor by the total fund allocated to all hospitals
10 within the respective pool under paragraph (a) of this subsection.

11 a. Hospitals shall report uncompensated care provided to qualified
12 individuals and families with total annual incomes and resources
13 up to one hundred percent (100%) of the federal poverty level,
14 including care rendered to indigent persons age twenty-two (22) to
15 sixty-four (64) in a psychiatric hospital to the Cabinet for Health
16 and Family Services on a quarterly basis. However, all data for
17 care provided during the state fiscal year shall be submitted no
18 later than August 15 of each year.

19 b. The department shall use indigent care data for services delivered
20 from October 1, 1998, through September 30, 1999, as reported by
21 hospitals to calculate each hospital's indigent care factor for state
22 fiscal year 2000-2001. For state fiscal year 2001-2002 and each
23 year thereafter, the department shall use data reported by the
24 hospitals for indigent care services rendered for the twelve (12)
25 month period ending June 30 of each year as reported by the
26 hospital to the department by August 15 in calculating each
27 hospital's indigent care factor. The hospital shall, upon request by

1 the Cabinet for Health and Family Services, submit any
 2 supporting documentation to verify the indigent care data
 3 submitted for the calculation of an indigent care factor and annual
 4 payment.

5 c. By September 1 of each year, the department shall calculate a
 6 preliminary indigent care factor and preliminary annual payment
 7 amount for each hospital, and shall notify each hospital of their
 8 calculation. The notice shall contain a listing of each hospital's
 9 indigent care costs, their indigent care factor, and the estimated
 10 annual payment amount. Hospitals shall notify the department by
 11 September 15 of any adjustments in the department's preliminary
 12 calculations. The department shall make adjustments identified by
 13 hospitals and shall make a final determination of each hospital's
 14 indigent care factor and annual payment amount by October 1.

15 (e) For fiscal year 2000-2001 and continuing annually thereafter, the department
 16 shall issue to each hospital one (1) lump-sum payment on October 15, or later
 17 as soon as federal financial participation becomes available, for the
 18 disproportionate share funds available during the corresponding federal fiscal
 19 year.

20 (4) Notwithstanding any other provision to contrary, total annual disproportionate share
 21 payments made to state mental hospitals, university hospitals, acute care hospitals,
 22 and private psychiatric hospitals in each state fiscal year shall be equal to the
 23 maximum amount of disproportionate share payments established under the Federal
 24 Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share
 25 payments shall be subject to the availability of adequate state matching funds and
 26 shall not exceed total uncompensated costs.

27 (5) Hospitals receiving reimbursement shall not bill patients for services submitted for

1 reimbursement under this section and KRS 205.641. Services provided to
2 individuals who are eligible for medical assistance or the Kentucky Children's
3 Health Insurance Program do not qualify for reimbursement under this section and
4 KRS 205.641. Hospitals shall make a reasonable determination that an individual
5 does not qualify for these programs and shall request the individual to apply, if
6 appropriate, for medical assistance or Kentucky Children's Health Insurance on
7 forms supplied by and in accordance with procedures established by the Department
8 for Medicaid Services. The hospital shall document any refusal to apply and shall
9 inform the patient that the refusal may result in the patient being billed for any
10 services performed. The hospital shall not be eligible for reimbursement if the
11 patient was eligible for medical assistance or Kentucky Children's Health Insurance
12 and did not apply. Hospitals receiving reimbursement under this section and KRS
13 205.641 shall not bill patients for services provided to patients not eligible for
14 medical assistance with family incomes up to one hundred percent (100%) of the
15 federal poverty level.

16 (6) The secretary of the Cabinet for Health and Family Services shall promulgate
17 administrative regulations necessary, pursuant to KRS Chapter 13A, for the
18 administration and implementation of this section.

19 (7) All hospitals receiving reimbursement under this section and KRS 205.641 shall
20 display prominently a sign which reads as follows: "This hospital will accept
21 patients regardless of race, creed, ethnic background, or ability to pay."

22 Section 259. KRS 205.645 is amended to read as follows:

23 Notwithstanding any provision of KRS 205.560, the Cabinet for Health and Family
24 Services shall recognize the reasonable and appropriate varying overhead costs associated
25 with different areas of specialty for the purposes of establishing the standard
26 reimbursement rate for physician services, dental services, and services provided by other
27 independent providers under the Kentucky Medical Assistance Program.

1 Section 260. KRS 205.6483 is amended to read as follows:

2 There is hereby created within the Cabinet for Health and Family Services the Kentucky
3 Children's Health Insurance Program (KCHIP) for the purposes of:

- 4 (1) Providing health care coverage and other coordinated services to children through
5 the age of eighteen (18) years at or below two hundred percent (200%) of the
6 federal poverty level and who are not otherwise eligible for health insurance
7 coverage through either expansions of Medicaid services under Title XIX of the
8 Federal Social Security Act and through the provision of a separate health insurance
9 program under Title XXI of the Federal Social Security Act, or a combination of
10 Medicaid program expansions and use of a separate health insurance program; and
11 (2) Providing Medicaid coverage for children between the ages of fourteen (14) and
12 eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

13 Section 261. KRS 205.6485 is amended to read as follows:

- 14 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
15 meeting the requirements of Title XXI of the Federal Social Security Act, for
16 submission to the Secretary of the United States Department of Health and Human
17 Services within such time as will permit the state to receive the maximum amounts
18 of federal matching funds available under Title XXI. The cabinet shall, by
19 administrative regulation promulgated in accordance with KRS Chapter 13A,
20 establish the following:

- 21 (a) The eligibility criteria for children covered by the Kentucky Children's Health
22 Insurance Program. However, no person eligible for services under Title XIX
23 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
24 eligible for services under the Kentucky Children's Health Insurance Program
25 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to
26 205.6495 and KRS 304.17A-340;

- 27 (b) The schedule of benefits to be covered by the Kentucky Children's Health

Insurance Program, which shall include preventive services, vision services including glasses, and dental services including at least sealants, extractions, and fillings, and which shall be at least equivalent to one (1) of the following:

1. The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by U.S.C. sec. 8903(1);
2. A mid-range health benefit coverage plan that is offered and generally available to state employees; or
3. Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;

(c) The premium contribution per family of health insurance coverage available under the Kentucky Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions shall be based on a six (6) month period not to exceed:

1. Ten dollars (\$10), to be paid by a family with income between one hundred percent (100%) to one hundred thirty-three percent (133%) of the federal poverty level;
2. Twenty dollars (\$20), to be paid by a family with income between one hundred thirty-four percent (134%) to one hundred forty-nine percent (149%) of the federal poverty level; and
3. One hundred twenty dollars (\$120), to be paid by a family with income between one hundred fifty percent (150%) to two hundred percent (200%) of the federal poverty level, and which may be made on a partial payment plan of twenty dollars (\$20) per month or sixty dollars (\$60) per quarter;

- 1 (d) The level of copayments for services provided under the Kentucky Children's
2 Health Insurance Program that shall not exceed those allowed by federal law;
3 and
- 4 (e) The criteria for health services providers and insurers wishing to contract with
5 the Commonwealth to provide the children's health insurance coverage.
6 However, the cabinet shall provide, in any contracting process for the
7 preventive health insurance program, the opportunity for a public health
8 department to bid on preventive health services to eligible children within the
9 public health department's service area. A public health department shall not
10 be disqualified from bidding because the department does not currently offer
11 all the services required by paragraph (b) of this subsection. The criteria shall
12 be set forth in administrative regulations under KRS Chapter 13A and shall
13 maximize competition among the providers and insurers. The Cabinet for
14 Finance and Administration shall provide oversight over contracting policies
15 and procedures to assure that the number of applicants for contracts is
16 maximized.
- 17 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
18 plan, the Cabinet for Health and Family Services shall assure that a KCHIP
19 program is available to all eligible children in all regions of the state. If necessary,
20 in order to meet this assurance, the cabinet shall institute its own program.
- 21 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper
22 primary care provider to dentists for covered primary dental services and to
23 optometrists and ophthalmologists for covered primary eye and vision services.
- 24 Section 262. KRS 205.6487 is amended to read as follows:
- 25 (1) A "Kentucky Children's Health Insurance Program Trust Fund" shall be established
26 for the purpose of receiving all appropriated funds, premiums, or other revenue
27 received by the Kentucky Children's Health Insurance Program to be used for the

1 payment of costs and services associated with the administration of the program.
2 Appropriations made to the Kentucky Children's Health Insurance Program trust
3 fund shall not lapse at the end of a fiscal year but shall be carried forward in the
4 trust fund account and shall be available for allotment for its particular purpose in
5 the next fiscal year.

6 (2) The Kentucky Children's Health Insurance trust fund may receive state
7 appropriations, gifts, and grants, including federal funds. Any unallotted or
8 unencumbered balances in the Kentucky Children's Health Insurance Program trust
9 fund shall be invested as provided for in KRS 42.500(9). Income earned from the
10 investments shall be credited to the Kentucky Children's Health Insurance Program
11 trust fund account.

12 (3) The secretary of the Cabinet for Health and Family Services shall, by
13 administrative regulation promulgated in accordance with KRS Chapter 13A,
14 provide for the administration of the trust fund.

15 (4) In administering the Kentucky Children's Health Insurance Program, the
16 administrative costs under the program shall be limited to no more than ten percent
17 (10%) of applicable program costs.

18 (5) Notwithstanding the provisions of KRS 205.6336, the trust fund shall administer
19 any savings from the implementation of the cabinet's Kentucky Children's Health
20 Insurance Program through managed care and shall use those savings to provide
21 state matching funds for any enhanced federal funds available under Title XXI of
22 the Federal Social Security Act.

23 Section 263. KRS 205.6489 is amended to read as follows:

24 (1) The Kentucky Children's Health Insurance Program shall be administered by the
25 Cabinet for Health and Family Services in terms of conducting eligibility
26 determination and providing oversight over enrollment and claims payment.

27 (2) The program shall include a system of outreach and referral for children who may

1 be eligible for the Kentucky Children's Health Insurance Program. The program
2 shall work with the Department for Medicaid Services, the Department for
3 Community Based Services, schools, pediatricians, public health departments, and
4 other entities interested in the health of children in developing the system of
5 outreach and referral.

6 (3) The cabinet shall promulgate administrative regulations in accordance with KRS
7 Chapter 13A to establish a structure for quality assurance and utilization review
8 under KRS 205.6481 to 205.6495 and KRS 304.17A-340.

9 (4) The Kentucky Children's Health Insurance Program shall collect, analyze, and
10 publicly disseminate comprehensive data on the number of children enrolled in the
11 program, services received through the program, and the effect on health outcomes
12 of children served by the program including the special health needs of minority
13 children. The information collected by the program shall be subject to KRS
14 216.2927(1). The program shall have access to all data collected by the cabinet
15 under KRS 216.2920 to 216.2929 and shall coordinate program data collection
16 efforts with the data collection efforts of the cabinet under KRS 216.2920 to
17 216.2929.

18 Section 264. KRS 205.6491 is amended to read as follows:

19 (1) Within thirty (30) days of April 2, 1998, the Governor shall appoint a seven (7)
20 member advisory council to the Kentucky Children's Health Insurance Program to
21 make recommendations on the implementation of KRS 205.6481 to 205.6495 and
22 KRS 304.17A-340. The appointed members shall serve at the pleasure of the
23 Governor and shall be representative of health care providers, families with children
24 eligible for services under KRS 205.6481 to 205.6495 and KRS 304.17A-340, and
25 child advocacy groups.

26 (2) Staff services for the advisory council shall be provided by the Cabinet for Health
27 and Family Services.

1 Section 265. KRS 205.710 is amended to read as follows:

2 As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

- 3 (1) "Cabinet" shall mean the Cabinet for *Health and Family Services*~~[Families and~~
4 ~~Children]~~;
- 5 (2) "Secretary" shall mean the secretary of the Cabinet for *Health and Family*
6 *Services*~~[Families and Children]~~;
- 7 (3) "Court order" shall mean any judgment, decree, or order of the courts of this state or
8 any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to
9 405.520, and 530.050, it shall also include an order of an authorized administrative
10 body;
- 11 (4) "Dependent child" or "needy dependent child" shall mean any person under the age
12 of eighteen (18), or under the age of nineteen (19) if in high school, who is not
13 otherwise emancipated, self-supporting, married, or a member of the Armed Forces
14 of the United States and is a recipient of or applicant for services under Part D of
15 Title IV of the Social Security Act;
- 16 (5) "Duty of support" shall mean any duty of support imposed or imposable by law or
17 by court order, decree, or judgment, whether interlocutory or final, and includes the
18 duty to pay spousal support that applies to spouses with a child even if child support
19 is not part of the order or when spousal support is assigned to the cabinet and
20 arrearages of support past due and unpaid in addition to medical support whenever
21 health-care coverage is available at a reasonable cost;
- 22 (6) "Recipient" shall mean a relative or payee within the meaning of the Social Security
23 Act and federal and state regulations who is receiving public assistance on behalf of
24 a needy dependent child;
- 25 (7) "Consumer reporting agency" means any person or organization which, for
26 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole
27 or in part in the practice of assembling or evaluating consumer credit information or

1 other information on consumers for the purpose of furnishing consumer reports to
 2 third parties, and which uses any means or facility of interstate commerce for the
 3 purpose of preparing or furnishing consumer reports;

4 (8) "Obligor" means a parent who has an obligation to provide support;

5 (9) "Employer" means any individual, sole proprietorship, partnership, association, or
 6 private or public corporation, the United States or any federal agency, this state or
 7 any political subdivision of this state, any other state or a political subdivision of
 8 another state, or any other legal entity which hires and pays an individual for his
 9 services;

10 (10) "Income" means but is not limited to any of the following:

11 (a) Commissions, bonuses, workers' compensation awards attributable to lost
 12 wages, retirement and pensions, interest and disability, earnings, salaries,
 13 wages, and other income due or to be due in the future from a person's
 14 employer and successor employers;

15 (b) Any payment due or to be due in the future from a profit-sharing plan, pension
 16 plan, insurance contract, annuity, Social Security, proceeds derived from state
 17 lottery winnings, unemployment compensation, supplemental unemployment
 18 benefits, and workers' compensation; and

19 (c) Any amount of money which is due to the obligor under a support order as a
 20 debt of any other individual, partnership, association, or private or public
 21 corporation, the United States or any federal agency, this state or any political
 22 subdivision of this state, any other state or a political subdivision of another
 23 state, or any other legal entity which is indebted to the obligor;

24 (11) "Earnings" means compensation paid or payable for personal services, whether
 25 denominated as wages, salary, commission, bonus, or otherwise, and
 26 notwithstanding any other provision of law exempting such payments from
 27 garnishment, attachment, or other process to satisfy support obligations and

specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from public assistance under Title IV-A of the Social Security Act, or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 266. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support is established in the Cabinet for **Health and Family Services**~~[Families and Children]~~.

- 1 (2) The duties of the Division of Child Support, or its designee, shall include:
- 2 (a) Serve as state agency authorized to administer Part D of Title IV of the Social
- 3 Security Act, 42 U.S.C. secs. 651 to 669;
- 4 (b) Serve as the information agency as provided in the Uniform Interstate Family
- 5 Support Act, KRS Chapter 407;
- 6 (c) Serve as collector of all court-ordered or administratively ordered child
- 7 support payments pursuant to Part D of Title IV of the Social Security Act;
- 8 (d) Serve as the agent for enforcement of international child support obligations,
- 9 and respond to requests from foreign reciprocating countries;
- 10 (e) Establish and enforce an obligation upon receipt of a completed, notarized
- 11 voluntary acknowledgment-of-paternity form;
- 12 (f) Enforce Kentucky child support laws, including collection of court-ordered or
- 13 administratively ordered child support arrearages and prosecution of persons
- 14 who fail to pay child support;
- 15 (g) Publicize the availability of services and encourage the use of these services
- 16 for establishing paternity and child support;
- 17 (h) Pay the cost of genetic testing to establish paternity, subject to recoupment
- 18 from the alleged father, when paternity is administratively or judicially
- 19 determined; and obtain additional testing when an original test is contested,
- 20 upon request and advance payment by the contestant;
- 21 (i) Establish child support obligations and seek modification of judicially or
- 22 administratively established child support obligations in accordance with the
- 23 child support guidelines of the Commonwealth of Kentucky as provided under
- 24 KRS 403.212;
- 25 (j) Administratively establish child support orders which shall have the same
- 26 force and effect of law;
- 27 (k) Issue an administrative subpoena to secure public and private records of utility

1 and cable companies and asset and liability information from financial
2 institutions for the establishment, modification, or enforcement of a child
3 support obligation;

4 (l) Impose a penalty for failure to comply with an administrative subpoena;

5 (m) Provide notices, copies of proceedings, and determinations of support
6 amounts to any parties or individuals who are applying for or receiving Title
7 IV-D services, or who are parties to cases in which Title IV-D services are
8 being provided;

9 (n) Issue interstate administrative subpoenas to any individual or entity for
10 financial or other information or documents which are needed to establish,
11 modify, or enforce a child support obligation pursuant to Part D of Title IV of
12 the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative
13 subpoena lawfully issued in another state to an individual or entity residing in
14 this state shall be honored and enforced in the Circuit Court where the
15 individual or entity resides; and

16 (o) May promulgate administrative regulations to implement this section and
17 adopt forms or implement other requirements of federal law relating to
18 interstate administrative subpoenas.

19 (3) Effective September 30, 1999, the cabinet shall establish a system to receive and
20 process all child support payments. The system shall include existing computer
21 systems to record the payments. The automated system shall include a state case
22 registry that contains records with respect to each case in which services are being
23 provided by the cabinet and each child support order established or modified in the
24 state on or after October 1, 1998.

25 (4) The cabinet shall establish and operate a state disbursement unit for the collection,
26 disbursement, and recording of payments under support orders for all Title IV-D
27 cases and for all cases initially issued in the state on or after January 1, 1994, in

1 which a wage withholding has been court-ordered or administratively ordered,
2 pursuant to Part D of Title IV of the Social Security Act. Establishment of the state
3 unit may include the designation and continuation of existing local collection units
4 to aid efficient and effective collection, disbursement, and recording of child
5 support payments.

6 (5) After the establishment of the disbursement unit child support collection system, the
7 cabinet or its designee shall serve as collector of all court-ordered or
8 administratively ordered child support payments pursuant to Part D of Title IV of
9 the Social Security Act.

10 (6) Where establishment of paternity and enforcement and collection of child support is
11 by law the responsibility of local officials, the cabinet shall refer cases to the
12 appropriate official for such action. The cabinet may enter into cooperative
13 arrangements with appropriate courts and law enforcement officials to assist the
14 cabinet in administering the program of child support recovery, including the
15 entering into of financial arrangements with such courts and officials as provided
16 for under the provisions of federal law and regulations. The local county attorney
17 shall be considered the designee of the cabinet for purposes of administering the
18 program of child support recovery within a county, subject to the option of the
19 county attorney to decline such designation. Nothing in this section shall prevent the
20 secretary from taking such action, with prior written notice, as appropriate if the
21 terms and conditions of the cooperative agreement are not met. When a cooperative
22 agreement with a contracting official is canceled for good cause, the cabinet may
23 not offer that cooperative agreement to that official during the official's tenure.

24 (7) Where the local county attorney, friend of the court, domestic relations agent, or
25 other designee of the cabinet has been contracted for the purpose of administering
26 child support enforcement pursuant to Title IV-D of the Social Security Act, the
27 contracting official shall be deemed to be representing the cabinet and as such does

1 not have an attorney-client relationship with the applicant who has requested
2 services pursuant to Title IV-D of the Social Security Act nor with any dependent
3 on behalf of the individuals for whom services are sought.

4 (8) The cabinet shall determine the name of each obligor who owes an arrearage of at
5 least five thousand dollars (\$5,000). After notification to the obligor owing an
6 arrearage amount of five thousand dollars (\$5,000), the cabinet shall transmit to the
7 United States secretary of health and human services the certified names of the
8 individuals and supporting documentation for the denial, revocation, or limitation of
9 the obligor's passport. The cabinet shall notify the identified obligor of the
10 determination and the consequences and provide an opportunity to contest the
11 determination.

12 (9) The cabinet shall determine the name of an obligor owing an arrearage and shall
13 indefinitely deny, suspend, or revoke a license or certification that has been issued if
14 the person has a child support arrearage that equals or exceeds the amount that
15 would be owed after six (6) months of nonpayment or fails, after receiving
16 appropriate notice, to comply with subpoenas or warrants relating to paternity or
17 child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

18 (10) The cabinet shall forward the name of the individual to a board of licensure or
19 board of certification for the notification of the denial, revocation, or suspension of
20 a driver's license, professional license or certification, occupational license or
21 certification, recreational license, or sporting license.

22 (11) The denial or suspension shall remain in effect until the child support arrearage has
23 been eliminated or payments on the child support arrearage are being made in
24 accordance with a court or administrative order, the person complies with the
25 subpoena or warrant relating to paternity or child support proceedings, or the appeal
26 of the denial or suspension is upheld and the license is reinstated.

27 (12) Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq.

1 which shall be afforded the appeal process set forth by KRS 405.450(3), an
2 individual who has a license or certification denied, revoked, or suspended shall
3 have the right to appeal to the licensing or certifying board.

4 (13) A dispute hearing shall be conducted by the cabinet in accordance with KRS
5 405.450. The only basis for a dispute hearing shall be a mistake in fact.

6 (14) The cabinet shall in its discretion enter into agreements with financial institutions
7 doing business in the Commonwealth to develop and operate, in coordination with
8 the financial institutions, a data match system. The financial institution shall be
9 required to provide identifying information for each obligated parent who maintains
10 an account at the institution and owes an arrearage, and who shall be identified by
11 the cabinet. Assets held by the institutions on behalf of any obligated parent who is
12 subject to a child support lien pursuant to KRS 205.745 shall be encumbered or
13 surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet
14 may pay a reasonable fee to a financial institution for conducting the data match,
15 not to exceed the actual cost. The financial institution shall not be liable for
16 encumbering or surrendering any assets held by the financial institution in response
17 to a notice of lien or levy issued by the cabinet or for any other action taken in good
18 faith to comply with the requirements of this subsection.

19 (15) The cabinet may issue both intrastate and interstate administrative subpoenas to any
20 individual or entity for financial or other information or documents that are needed
21 to establish, modify, or enforce a child support obligation pursuant to Title IV-D of
22 the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena
23 lawfully issued in another state to an individual or entity in this state shall be
24 honored and enforced in the Circuit Court of the county in which the individual or
25 entity resides.

26 (16) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall forward
27 to the Office of the Attorney General a list of names of delinquent obligors and, in

1 cooperation with the Office of the Attorney General, shall promulgate
 2 administrative regulations in accordance with KRS Chapter 13A to implement KRS
 3 15.055.

4 (17) The cabinet shall compare a quarterly report provided by the Finance and
 5 Administration Cabinet of all tort claims made against the state by individuals with
 6 the child support database to match individuals who have a child support arrearage
 7 and may receive a settlement from the state.

8 (18) The cabinet shall prepare and distribute to the cabinet's designee for the
 9 administration of the child support program information on child support
 10 collections and enforcement. The information shall include a description of how
 11 child support obligations are:

- 12 (a) Established;
- 13 (b) Modified;
- 14 (c) Enforced;
- 15 (d) Collected; and
- 16 (e) Distributed.

17 (19) The cabinet's designee for the administration of the child support program shall
 18 distribute, when appropriate, the following:

- 19 (a) Information on child support collections and enforcement; and
- 20 (b) Job listings posted by employment services.

21 Section 267. KRS 205.713 is amended to read as follows:

22 All forms, child support orders, wage withholding orders, or orders amending an existing
 23 child support order, entered in any case in Circuit Court, District Court, or family court
 24 that require entry into the state case registry under KRS 205.712(3) shall be entered on
 25 forms adopted by the Administrative Office of the Courts after consultation with the
 26 Cabinet for **Health and Family Services**~~[Families and Children]~~. If the provisions of a
 27 child support order are contained in an order that is narrative in nature, the adopted forms

1 shall be used in addition to the narrative order.

2 Section 268. KRS 205.7695 is amended to read as follows:

3 The Cabinet for **Health and Family Services**~~[Families and Children]~~ and the Revenue
4 Cabinet shall work together to develop a system of information sharing for the effective
5 and efficient collection of child support payments. Any requirement included in KRS
6 Chapter 131, 205, 403, or 405 or any other law for either cabinet for the confidentiality of
7 individual personal and financial records shall not be violated in the process of this
8 coordination.

9 Section 269. KRS 205.774 is amended to read as follows:

10 (1) The Cabinet for **Health and Family Services**~~[Families and Children]~~ shall design,
11 develop, implement, and operate a wage reporting and financial institution match
12 system for the purpose of identifying the financial assets of individuals as identified
13 by cabinet agencies, for the purpose of administering the child support enforcement
14 program of the Commonwealth. The Cabinet for **Health and Family**
15 **Services**~~[Families and Children]~~ may promulgate administrative regulations to
16 implement this section.

17 (2) Each financial institution in the Commonwealth shall enter into an agreement with
18 the Cabinet for **Health and Family Services**~~[Families and Children]~~ to develop and
19 operate a data match system to facilitate identification of financial assets of
20 individuals identified by cabinet agencies for the purpose of administering the child
21 support enforcement programs of the Commonwealth.

22 Section 270. KRS 205.776 is amended to read as follows:

23 (1) A financial institution furnishing a report or providing asset information of an
24 individual owing past-due support to the Cabinet for **Health and Family**
25 **Services**~~[Families and Children]~~ under either subsection (1) or subsection (2) of
26 KRS 205.774 shall not disclose to a depositor or an account holder that the name of
27 that person has been received from or furnished to the Cabinet for **Health and**

1 **Family Services**~~[Families and Children]~~. An institution may disclose to its
 2 depositors or account holder that under the financial institution match system the
 3 Cabinet for **Health and Family Services**~~[Families and Children]~~ has the authority
 4 to request certain identifying information on certain depositors or account holders.

5 (2) If a financial institution willfully violates the provisions of this section by releasing
 6 asset information of an individual owing child support to the Cabinet for **Health**
 7 **and Family Services**~~[Families and Children]~~, the institution shall pay to the Cabinet
 8 for **Health and Family Services**~~[Families and Children]~~ the lesser of one thousand
 9 dollars (\$1,000) or the amount on deposit or in the account of the person to whom
 10 the disclosure was made.

11 (3) A financial institution shall incur no obligation or liability to a depositor or account
 12 holder or any other person arising from the furnishing of a report or information to
 13 the Cabinet for **Health and Family Services**~~[Families and Children]~~ under KRS
 14 205.774, or from the failure to disclose to a depositor or account holder that the
 15 name of the person was included in a list furnished by the financial institution to the
 16 Cabinet for **Health and Family Services**~~[Families and Children]~~, or in a report
 17 furnished by the financial institution to the Cabinet for **Health and Family**
 18 **Services**~~[Families and Children]~~.

19 (4) Regardless of whether the action was specifically authorized or described in KRS
 20 205.715 to 205.800 or an agreement, a financial institution shall not be liable for
 21 providing or disclosing of any information; for encumbering, holding, refusing to
 22 release, surrendering, or transferring any account balance or asset; or any other
 23 action taken by a financial institution pursuant to KRS 205.715 to 205.800 or
 24 agreement as required by KRS 205.774.

25 (5) A financial institution shall not give notice to an account holder or customer of the
 26 financial institution that the financial institution has provided information or taken
 27 any action pursuant to KRS 205.715 to 205.800 or the agreement and shall not be

liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders. The cabinet shall notify, not less than annually, affected depositors or account holders who have not otherwise received notification.

- (6) A financial institution may charge an account levied on by the Cabinet for *Health and Family Services*~~[Families and Children]~~ a fee of not more than twenty dollars (\$20) which may be deducted from the account prior to remitting any funds to the Cabinet for *Health and Family Services*~~[Families and Children]~~.

Section 271. KRS 205.778 is amended to read as follows:

- (1) When the cabinet determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a noncustodial parent who owes past-due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.
- (2) The cabinet shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date

1 that notice is sent to the financial institution.

2 (3) A financial institution ordered to block or encumber an account shall be entitled to
3 collect its normally scheduled account activity fees to maintain the account during
4 the period of time the account is blocked or encumbered.

5 (4) Any levy issued on an identified account by the Cabinet for **Health and Family**
6 **Services**~~[Families and Children]~~ for past-due child support shall have first priority
7 over any other lien or levy issued by the Revenue Cabinet or any other agency,
8 corporation, or association.

9 Section 272. KRS 205.796 is amended to read as follows:

10 No employee or agent of the Commonwealth shall divulge any information referred to in
11 KRS 205.715 to 205.800, except in the manner prescribed in KRS 205.715 to 205.800 to
12 any public or private agency or individual; provided, however, that information may be
13 disclosed and shared by and between any employee of the Cabinet for **Health and Family**
14 **Services**~~[Families and Children]~~ and any designee, local administering agency, or any
15 local housing authority for the purpose of verifying eligibility and detecting and
16 preventing fraud, error, and abuse in the programs included in the reporting system.
17 Unauthorized disclosure of any information shall be a violation that is punishable by a
18 fine of one hundred dollars (\$100) per offense; except that the unauthorized release of the
19 information about any individual shall be a separate offense from information released
20 about any other individual.

21 Section 273. KRS 205.7965 is amended to read as follows:

22 Nothing in KRS 205.715 to 205.800 shall be construed to prevent the release by the
23 Cabinet for **Health and Family Services**~~[Families and Children]~~ of wage and financial
24 institution information data to the United States Social Security Administration or the
25 agencies of other states who administer federally funded welfare and unemployment
26 compensation programs.

27 Section 274. KRS 205.802 is amended to read as follows:

1 All forms, child support orders, wage withholding orders, or orders amending an existing
 2 child support order, entered in any case in Circuit, District, or Family Court that require
 3 entry into the state case registry pursuant to KRS 205.712(3) shall be entered on forms
 4 adopted by the Administrative Office of the Courts in coordination with the Cabinet for
 5 **Health and Family Services**~~[Families and Children]~~. If the provisions of a child support
 6 order are contained in an order that is narrative in nature, the adopted forms shall be used
 7 in addition to the narrative order.

8 Section 275. KRS 205.8451 is amended to read as follows:

9 As used in KRS 205.8451 to 205.8483, unless the context otherwise requires:

10 (1) "Benefit" means the receipt of money, goods, or anything of pecuniary value from
 11 the Medical Assistance Program.

12 (2) "Fraud" means an intentional deception or misrepresentation made by a recipient or
 13 a provider with the knowledge that the deception could result in some unauthorized
 14 benefit to the recipient or provider or to some other person. It includes any act that
 15 constitutes fraud under applicable federal or state law.

16 (3) "Immediate family member" means a parent, grandparent, spouse, child, stepchild,
 17 father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law,
 18 sister-in-law, or grandchild.

19 (4) "Intentional" or "intentionally" means, with respect to a result or to conduct
 20 described by a statute defining an offense, that a person's conscious objective is to
 21 cause that result or to engage in that conduct.

22 (5) "Knowingly" means, with respect to conduct or to a circumstance described by a
 23 statute defining an offense, that a person is aware that his conduct is of that nature
 24 or that the circumstance exists.

25 (6) "Medical Assistance Program" means the program of medical assistance as
 26 administered by the Cabinet for Health **and Family** Services in compliance with
 27 Title XIX of the Federal Social Security Act and any administrative regulations

1 related thereto.

2 (7) "Provider" means an individual, company, corporation, association, facility, or
3 institution which is providing or has been approved to provide medical services,
4 goods, or assistance to recipients under the Medical Assistance Program.

5 (8) "Provider abuse" means, with reference to a health care provider, practices that are
6 inconsistent with sound fiscal, business, or medical practices, and that result in
7 unnecessary cost to the Medical Assistance Program established pursuant to this
8 chapter, or that result in reimbursement for services that are not medically necessary
9 or that fail to meet professionally recognized standards for health care. It also
10 includes practices that result in unnecessary cost to the Medical Assistance
11 Program.

12 (9) "Recipient" means any person receiving or who has received medical assistance
13 benefits.

14 (10) "Recipient abuse" means, with reference to a medical assistance recipient, practices
15 that result in unnecessary cost to the Medical Assistance Program or the obtaining
16 of goods, equipment, medicines, or services that are not medically necessary, or that
17 are excessive, or constitute flagrant overuse or misuse of Medical Assistance
18 Program benefits for which the recipient is covered.

19 (11) "Wantonly" means, with respect to a result or to a circumstance described by a
20 statute defining an offense, that a person is aware of and consciously disregards a
21 substantial and unjustifiable risk that the result will occur or that the circumstance
22 exists. The risk must be of such nature and degree that disregard thereof constitutes
23 a gross deviation from the standard of conduct that a reasonable person would
24 observe in the situation. A person who creates such a risk but is unaware thereof
25 solely by reason of voluntary intoxication also acts wantonly with respect thereto.

26 Section 276. KRS 205.8453 is amended to read as follows:

27 It shall be the responsibility of the Cabinet for Health and Family Services and the

1 Department for Medicaid Services to control recipient and provider fraud and abuse by:

- 2 (1) Informing recipients and providers as to the proper utilization of medical services
3 and methods of cost containment;
- 4 (2) Establishing appropriate checks and audits within the Medicaid Management
5 Information System to detect possible instances of fraud and abuse;
- 6 (3) Sharing information and reports with other departments within the Cabinet for
7 Health and Family Services, the Office of the Attorney General, and any other
8 agencies that are responsible for recipient or provider utilization review; and
- 9 (4) Instituting other measures necessary or useful in controlling fraud and abuse.

10 Section 277. KRS 205.8455 is amended to read as follows:

- 11 (1) To implement provisions of this section, the commissioner of the Department for
12 Medicaid Services shall create, no later than July 30, 1994, a Recipient Utilization
13 Review Committee with the authority to:

- 14 (a) Review individual recipient utilization or program benefits, recipient medical
15 records, and other additional information or data necessary to make a
16 decision;
- 17 (b) Determine if a recipient has utilized the program or services in a fraudulent or
18 abusive manner;
- 19 (c) Refer cases of suspected recipient fraud to the Office of the Inspector General
20 in the Cabinet for Health and Family Services;
- 21 (d) Institute administrative actions to restrict or revoke the recipient's
22 participation in the Medical Assistance Program; and
- 23 (e) Initiate actions to recover the value of benefits received by the recipient which
24 were determined to be related to fraudulent or abusive activities.

- 25 (2) The Recipient Utilization Review Committee shall be composed of five (5)
26 members as follows: one (1) licensed physician, one (1) representative from the
27 same program benefit area that is the subject of the review, one (1) recipient or

1 representative of medical assistance benefits, one (1) representative of the
2 Surveillance and Utilization Review Subsystems Unit, as required under Title XIX
3 of the Social Security Act, and the commissioner of the Department for Public
4 Health, who shall serve by virtue of his or her office.

5 (3) A medical assistance recipient whose eligibility has been revoked due to defrauding
6 the Medical Assistance Program shall not be eligible for future medical assistance
7 services for a period of not more than one (1) year or until full restitution has been
8 made to the Department for Medicaid Services, whichever comes first.

9 (4) When a medical assistance recipient whose eligibility has been revoked due to
10 defrauding of the Medical Assistance Program reapplies for coverage, during the
11 period of revocation, due to pregnancy, a communicable disease, or other condition
12 that creates a risk to public health, or a condition which if not treated could result in
13 immediate grave bodily harm, the recipient utilization review committee for the
14 Department for Medicaid Services may change the revoked status of the previously
15 eligible recipient to restricted status if it has been determined that it would be in the
16 best interest of the previously eligible medical assistance recipient to receive
17 coverage for medical assistance services and the person is otherwise eligible. If this
18 change in status is granted, the case shall be reconsidered by the Recipient
19 Utilization Review Committee within sixty (60) days after the restricted status takes
20 effect.

21 (5) Upon determination by the Recipient Utilization Review Committee of the
22 Department for Medicaid Services that a medical assistance recipient has abused the
23 benefits of the Medical Assistance Program, the recipient shall immediately be
24 assigned and restricted to a managed care primary physician designated by the
25 Department for Medicaid Services. Except in the case of an emergency as defined
26 by the recipient utilization review committee and set forth by the Cabinet for Health
27 and Family Services in an administrative regulation promulgated pursuant to KRS

Chapter 13A, the restricted recipient shall be eligible to receive covered services only upon presenting to a participating provider, prior to the receipt of services, a dated written referral by the assigned managed care primary physician. Any participating provider who provides services to a medical assistance recipient in violation of the provisions of this subsection shall not be eligible for reimbursement for any services rendered.

(6) The Cabinet for Health and Family Services shall request any waivers of federal law that are necessary to implement the provisions of this section.

(7) The provisions of paragraphs (d) and (e) of subsection (1) of this section and of subsections (3), (4), and (5) of this section shall have no force or effect until and unless the requested waivers are granted.

(8) Nothing in this section shall authorize the Cabinet for Health and Family Services to waive the recipient's or provider's rights to prior notice and hearing as guaranteed by federal law.

(9) All complaints received by the Department for Medicaid Services, the Office of the Inspector General, the Office of the Attorney General, or by personnel of the Cabinet for Health and Family Services concerning possible fraud or abuse by a medical assistance recipient shall be forwarded immediately to the Recipient Utilization Review Committee for its consideration. Any cases of possible recipient fraud or abuse uncovered by personnel of the Cabinet for Health and Family Services or by providers shall also be referred immediately to the Recipient Utilization Review Committee for its review. Records shall be kept of all cases, including records of disposition, considered by the Recipient Utilization Review Committee.

Section 278. KRS 205.8457 is amended to read as follows:

Any provider agreeing to participate as a managed care primary physician of the state's Medical Assistance Program shall be responsible for prior approval of all medical-related

1 services and goods, except transportation, of recipients assigned to the primary
 2 physician's care as set forth under administrative regulation promulgated by the Cabinet
 3 for Health and Family Services pursuant to KRS Chapter 13A. No primary physician
 4 may delegate that primary physician's authority to anyone except a provider designated by
 5 the managed care primary physician to temporarily be responsible for the primary
 6 physician's managed care patients during the primary physician's absence. The
 7 temporarily designated provider shall be approved by the Department for Medicaid
 8 Services. Procedures for delegation of authority to a temporarily designated provider shall
 9 be approved by the Department for Medicaid Services in accordance with any applicable
 10 federal laws or regulations.

11 Section 279. KRS 205.8463 is amended to read as follows:

- 12 (1) No person shall knowingly or wantonly devise a scheme or plan a scheme or
 13 artifice, or enter into an agreement, combination, or conspiracy to obtain or aid
 14 another in obtaining payments from any medical assistance program under this
 15 chapter by means of any fictitious, false, or fraudulent application, claim, report, or
 16 document submitted to the Cabinet for Health and Family Services, or intentionally
 17 engage in conduct which advances the scheme or artifice.
- 18 (2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be
 19 made or presented to an employee or officer of the Cabinet for Health and Family
 20 Services any false, fictitious, or fraudulent statement, representation, or entry in any
 21 application, claim, report, or document used in determining rights to any benefit or
 22 payment.
- 23 (3) No person shall, with intent to defraud, knowingly make, or induce, or seek to
 24 induce the making of a false statement or false representation of a material fact with
 25 respect to the conditions or operations of an institution or facility in order that the
 26 institution or facility may qualify, upon initial certification or upon recertification,
 27 as a hospital, skilled-nursing facility, intermediate-care facility, home-health

1 agency, or other provider of services to the Medical Assistance Program.

2 (4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and
 3 Family Services under this chapter, knowingly falsify, conceal, or cover up by any
 4 trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent
 5 statement or representation, or make or use any false writing or document knowing
 6 the same to contain any false, fictitious, or fraudulent statement or entry.

7 (5) Any person who violates subsections (1) and (2) of this section shall be guilty of a
 8 Class A misdemeanor unless the sum total of benefits or payments claimed in any
 9 application, claim, report, or document, or in any combination or aggregation
 10 thereof, is valued at three hundred dollars (\$300) or more in which case it shall be a
 11 Class D felony. Any person who violates the provisions of subsection (3) of this
 12 section shall be guilty of a Class C felony. Any person who violates the provisions
 13 of subsection (4) of this section shall be guilty of a Class D felony.

14 Section 280. KRS 205.8465 is amended to read as follows:

15 (1) Any person who knows or has reasonable cause to believe that a violation of this
 16 chapter has been or is being committed by any person, corporation, or entity, shall
 17 report or cause to be reported to the state Medicaid Fraud Control Unit, or the
 18 Medicaid Fraud and Abuse hotline, the following information, if known:

- 19 (a) The name and address of the offender;
- 20 (b) The offender's place of employment;
- 21 (c) The nature and extent of the violation;
- 22 (d) The identity of the complainant; and
- 23 (e) Any other information that the receiving person reasonably believes might be
 24 helpful in investigation of the alleged fraud, abuse, or misappropriation.

25 The state Medicaid Fraud Control Unit shall periodically publicize the provisions of
 26 this subsection.

27 (2) The identity of any person making a report under this section shall be considered